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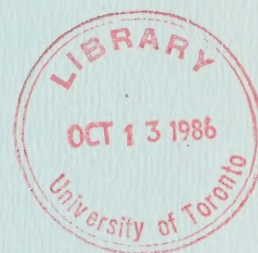
Ontario

ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 142

DATE: Tuesday, October 3rd, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman
E. MARTEL, Member
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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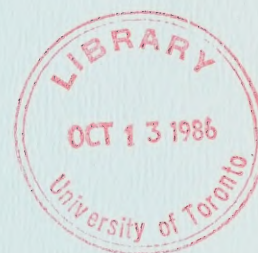


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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Tuesday, October 3rd,
1989, commencing at 8:30 a.m.

VOLUME 142

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH)	MINISTRY OF NATURAL
MS. K. MURPHY)	RESOURCES
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. B. HARVIE)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
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MR. D. HUNTER)	NISHNAWBE-ASKI NATION
MS. N. KLEER)	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
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MR. R. LINDGREN)	
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	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION

APPEARANCES: (Cont'd)

MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK)	MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS
	OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH)	
MR. J. EBBS	ONTARIO PROFESSIONAL
	FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM
	ASSOCIATION OF ONTARIO
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MS. S.V. BAIR-MUIRHEAD)	
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	ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF
	FORESTRY (CENTRAL
	ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN
	DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY
	ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON
	WATCHDOG SOCIETY

APPEARANCES: (Cont'd)

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

(iv)

I N D E X O F P R O C E E D I N G S

Witness:

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<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
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I N D E X O F E X H I B I T S

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865	Drawing regarding primary road corridor affected by preliminary area of concern.	24147
866	Hard copy of two overheads re: Document 5 entitled: Annual Work Schedule (Page A & B).	24163
867	Red Lake Crown Management Unit annual work schedule map 1988-1989.	24172
868	Map entitled: Harvest Block from AWS.	24199
869	Hard copy of overheads re: Document 6, Protection Planning (Pages A to G).	24224
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872	Map entitled: Spruce Budworm Defoliation in 1986 and Forecast for 1987, Northwestern Ontario.	24267
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876	Generic Information Package.	24316
877	Document entitled: Timber Management Planning, Old versus New, Simplified Comparison.	24326

1 ---Upon commencing at 8:35 a.m.

2 THE CHAIRMAN: Good morning. Be seated,
3 please.

4 Ladies and gentlemen, the Board received
5 a request a couple of weeks ago with respect to one of
6 the media outlets taping the session for today and
7 perhaps tomorrow and we have consented to that because,
8 again, the Board feels it's in the public interest for
9 information concerning these proceedings to be
10 disseminated to as much of the public as possible.

11 So that we trust that you will bear with
12 us in terms of the lights and we have given
13 instructions that hopefully there will be as little
14 disruption as possible with respect to this and we hope
15 that we will receive parties' cooperation in connection
16 therewith.

17 Are there any other preliminary matters
18 to deal with before we proceed with today's session?

19 Mr. Freidin?

20 JOHN McNICOL,
21 FRANK D. KENNEDY,
22 J. JOSEPH CHURCHER,
23 RICHARD WILLIAM GROVES,
24 HARTLEY MULTAMAKI,
 ALBERT BISSCHOP,
 ROGER W. DAVISON,
 ROBERT THOMAS FLEET, Recalled

25 MR. FREIDIN: Mr. Chairman, one matter

1 arising out of the other day. You were asking I think
2 one of the witnesses about the differences between
3 policies, procedures and bulletins and I indicated that
4 there was an exhibit filed. The exhibit is Exhibit
5 528.

6 THE CHAIRMAN: Thank you.

7 MR. FREIDIN: That is an answer to a
8 Ministry of the Environment interrogatory in Panel No.
9 8.

10 Now, Mr. Chairman, the first matter I
11 would like to deal with is a matter which somehow
12 eluded me altogether last week and that is some
13 evidence that was intended to be led in relation to
14 roads but which was overlooked.

15 I am going to want to go back to Mr.
16 Multamaki, and you will recall that Mr. Bisschop
17 explained the planning process in relation to roads.
18 Two parts of that explanation addressed the requirement
19 that when you plan secondary roads at the five-year
20 level you have to look at alternatives, and also when
21 you cross an area of concern with a primary or
22 secondary road, you have to again look at alternatives.

23 No examples were provided of those two
24 planning situations by Mr. Multamaki, although they are
25 referred to in the witness statement.

1 CONTINUED DIRECT EXAMINATION BY MR. FREIDIN:

2 Q. And I would like to begin the day by
3 going back to Mr. Multamaki, and this evidence relates
4 to Part 11 of Document No. 2, and ask you, Mr.
5 Multamaki: Did you in fact plan for secondary roads in
6 a way which would demonstrate the planning process
7 described by Mr. Bisschop?

8 MR. MULTAMAKI: A. Yes, I did.

9 Q. And did you have any roads which
10 crossed areas of concern?

11 A. Yes, I did.

12 Q. And do you have examples of how you
13 dealt with those in the planning process?

14 A. Yes.

15 MR. FREIDIN: Mr. Chairman, if I might,
16 I'd like to file as the next exhibit a document
17 entitled: Road Planning, Five-Year Term. There are
18 three documents attached to the covering page and they
19 are copies of maps which form part of the Red Lake
20 Plan.

21 THE CHAIRMAN: Very well. I think we are
22 up to Exhibit 864.

23 MR. FREIDIN: (handed)

24 ---EXHIBIT NO. 864: Document entitled: Road
25 Planning, Five-Year Term (Red Lake
Plan).

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MR. FREIDIN: Q. Mr. Multamaki, I understand that we will start off dealing with the example of considering alternative locations for secondary road corridors; is that correct?

MR. MULTAMAKI: A. That's correct.

Q. And which part of Exhibit 864 will we be referring to for that description?

A. The first two pages will be used to demonstrate the location of alternative road corridors.

Q. Okay.

A. I guess the easiest way to demonstrate this is to put a map out front and we will use the 1:50,000 roads and allocation map to give the Board an overview of the area that we are dealing with.

In this case we are talking the Alford Lake area and the selection of an alternative -- identification of alternatives and selection of a road corridor in the Alford Lake area.

Q. What exhibit is that, Mr. Multamaki?

A. This map is Exhibit No. 840. We have previously examined this map in a number of parts to this evidence. The area that we are talking about is located in the centre portion of the map. You see that the Fire No. 7 line, the fire burned everything to the

1 west of the red line. Alford Lake in fact is this area
2 right here. (indicating) That in fact is a lake.

3 Block 22 is the block that we were
4 looking at for secondary road access, is shown on this
5 map, but not on the maps that you are looking at.
6 Those are in fact portions of Book No. 7 and they don't
7 contain the actual blocks or the harvest blocks, simply
8 the road locations.

9 What we were looking at was access into
10 block No. 22 which is on the south side of Alford Lake.
11 There were a number of -- or a lake system to the south
12 of it, Alford Lake and Corallen Lake to the north of it
13 and Fire No. 7 to the west.

14 We looked at two alternative road
15 locations, one that came down the west side of Alford
16 Lake between Alford Lake and a small lake located in
17 this. You will notice on those handouts that I
18 provided the lakes are identified in blue, they have
19 been highlighted. It in fact is the number 919, that
20 is an FRI designation for lake classification. So
21 where you see that blue highlight on 919, those in fact
22 are the lakes and that the roads show as passing
23 between a number of them.

24 We looked at the western option which
25 came down between Alford Lake and a small lake to the

1 west of it. One stream crossing on that location.
2 Approximately four and a half kilometres of that road
3 would pass through Fire No. 7 before it entered the
4 allocated block No. 22.

5 Q. Just show us on the page 1 of Exhibit
6 864, where is the general area of the block that you
7 were trying to access?

8 A. The block that I was trying to access
9 or we were trying to access is block 22. It's this
10 area right here. (indicating)

11 Q. And if we look at 864 where would
12 that be in a general sense?

13 A. It would be between Alford Lake and
14 the small lake directly to the south where you see the
15 919 that has been highlighted in the bottom right
16 corner of page 1. So that was the block that we
17 were -- or the allocation that we were looking at
18 accessing.

19 Q. And were you trying to access the
20 area to the north of the road and to the south, or just
21 to the north side of that road?

22 A. Yes. The intention was that that
23 road would pass through the centre of the block and in
24 fact the block could be operated from both sides of the
25 secondary road.

1 Q. If we look at Alford Road -- Alford
2 Lake, we see where it comes down into a bay here in the
3 southwest corner. Where was the fire area in relation
4 to that particular alternative, alternative 1?

5 A. It went almost directly south from
6 that long finger bay that you are talking about. The
7 fire burned everything to the west and the line runs
8 north/south. It burned everything to the west of that
9 and the block that we were looking at accessing was to
10 the east.

11 Q. So, in a general sense, we have a
12 dotted line that is running up the middle of that page
13 1 and, in general then, we can just assume that
14 everything to the left or to the west of that line
15 would be in the fire area?

16 A. Yes, everything to the west of that
17 dotted line dividing the page was in fact burned.

18 Q. Okay.

19 A. As well, with this alternative - we
20 identified this as alternative No. 1 - you will see a
21 small circle in the centre of that road location. It
22 was identified, as I said, as alternative 1.

23 The stream crossing was identified on
24 Alford Creek between Alford Lake and that small lake to
25 the west as a large circle. In fact on the original

1 maps, on the maps that were presented at the
2 information centres these were all colour coded and
3 identified by colours. Obviously in the reproduction
4 here the colours -- it was difficult to reproduce the
5 colours for these hearings.

6 As well, it's important to realize that
7 had we selected this alternative it would have required
8 the upgrading of approximately two kilometres of
9 primary access road in the form of the Pine Ridge Road.
10 The Pine Ridge Road had not been completed -- or had
11 not been constructed to the point where this
12 alternative went south from it or met it.

13 It in fact was only partially
14 constructed, the right-of-way had been cut, and certain
15 amount of initial roadwork had been done, but it would
16 have required sub-grade and so on being completed and
17 the Pine Ridge Road in fact to construct it to
18 standards before we could have used that alternative.

19 So in fact we would have had to make a
20 major investment on approximately two more kilometres
21 of Pine Ridge Road before we could use this road for
22 access purposes or construct this secondary alternative
23 for access purposes.

24 Q. Can you just point out again the Pine
25 Ridge Road on Exhibit 840?

1 A. The Pine Ridge Road is this black
2 line that you see running across the centre of the map.
3 The alternative would have left the Pine Ridge Road
4 here. (indicating) In fact it was only constructed to
5 standards to somewhere in this area right here.
6 (indicating)

7 Q. And so the road then would be on page
8 1 of Exhibit 864. The black line that runs across
9 starting on the right-hand side and then across the top
10 of the page, is that supposed to be the Pine Ridge
11 Road?

12 A. Yes, that represents the Pine Ridge
13 Road location.

14 Q. And this road that is coming south,
15 you have got a corridor there; how wide is the corridor
16 intended to be there?

17 A. That corridor is 500 metres except
18 where it crosses Alford Creek it has been narrowed down
19 to 100 metres. That was alternative No. 1 that we
20 identified for access into the Alford Lake area.

21 It's important to note that we did not
22 identify an alternative stream crossing there because
23 of the geographical location, the topographic features
24 and, in fact, the lakes that were located in that area.

25 If you look at the map on page 1 you will

1 notice that between Alford Lake and the lake
2 immediately to the west there isn't a great deal of
3 area, I am talking a very short distance and, in fact,
4 the hundred metre stream crossing was found to be
5 suitable only at that one point. As you move further
6 east towards Alford Lake you get into relatively
7 extensive swamps and, in fact, the costs of
8 constructing a stream crossing as you move east from
9 that small lake get considerably more expensive and
10 more difficult.

11 The second alternative for access into
12 this area is located on page 2 of Exhibit 864. Once
13 again you will notice that the lakes have been
14 identified in blue highlighter. Alford Lake directly
15 to the north on the top portion of the page, the stream
16 of lakes -- or the small lake system immediately to the
17 south identified in blue highlighter on the FRI
18 classification 919, and a road corridor moving from
19 east to west almost in the centre of the page. It's
20 identified with a small circle number 2.

21 That identified it as the second
22 alternative for access into the same block No. 22 and,
23 in fact, it shows here as the red centre line. This
24 again is block 22. (indicating) This is the Jamie Mine
25 Road or Road No. 6 -- or Road No. 9, sorry, which we

1 have previously discussed under the primary access
2 section.

3 Q. If we look at Exhibit 864 then, page
4 No. 2, the Jamie Mine Road then is the black line on
5 the right-hand side off of which alternative No. 2 is
6 shown?

7 A. That's correct. It's in the bottom
8 right-hand corner, it cuts across the bottom right-hand
9 corner. That is the Jamie Mine Road that was
10 previously discussed and, in fact, when you look at
11 alternative No. 2 it leaves the Jamie Mine Road, passes
12 through existing timber allocations which are shown on
13 the 1:50,000 scale map here; timber allocation No. 24,
14 timber allocation No. 23 and it provides access to
15 timber allocation No. 22. (indicating)

16 What you see is you see a secondary road
17 corridor, it passes through almost completely timber
18 allocations along its entire route. You will notice
19 that there is two stream crossings on this alternative,
20 they are identified as RL2 and RL3.

21 Q. And they are shown by the circles
22 again?

23 A. That's right. These were colour
24 coded circles, RL2 being on the left-hand side of the
25 page or the west part of the map, and RL3 being in the

1 centre.

2 Again, when we look at the geographical
3 locations of the lakes and river systems, the
4 alternatives for stream crossings were not available in
5 that there are only two points in crossing. The
6 alternative would have been not to use that as an
7 access route rather than cross those lakes in a
8 different position.

9 In fact, this alternative No. 2 was the
10 final alternative that was selected. It was
11 approximately the same length as the alternative No. 1
12 and it was selected based on the fact that the Jamie
13 Mine Road was already in place, that the Pine Ridge
14 Road was already in place, that it provided better
15 access to the resource or to block No. 22, it also
16 passed through timber along it's entire length and it
17 was found to be more suitable.

18 Q. And was there any consideration given
19 to the stream crossing? I'm thinking in terms of
20 picking the alternative 1 there was one stream
21 crossing, alternative 2 there were two stream
22 crossings; did that play any role in the decision?

23 A. Yes. We examined the fact that there
24 were two stream crossings, however, when you weighed
25 that against the fact that there was in fact timber

1 allocations along the entire length, you already had it
2 connecting to primary access that was completed, and
3 the fact that alternative 1 passed through the centre
4 or a portion of Fire No. 7 for four and a half
5 kilometres with no commercially viable timber along
6 that length, the decision was that in fact, yes, there
7 was more stream crossing than on alternative 1 but it
8 was acceptable.

9 Q. And were there some means by which
10 you would address the potential impacts of crossing
11 those streams?

12 A. Certainly. We have stream crossing
13 mitigation handbooks and so on.

14 Q. Perhaps, Mr. Multamaki, before you
15 put up the map for the other example, the example of
16 alternatives that cross an area of concern, could you
17 just perhaps direct the Board as to where in the
18 documentation that has been filed they will find a
19 description of the planning for this particular road
20 that you have just described?

21 A. Yes. This particular road can be
22 found in Book 7, pages 27 to 33 and in fact that is
23 contained in Exhibit 814, the excerpts from the Red
24 Lake Crown Plan.

25 Q. And do you believe that it is

1 necessary to go through that, or do you just want to
2 reference it?

3 A. I think we have seen those road
4 documentation sheets previously when we discussed the
5 road section. There is no point in belabouring that,
6 those documentation sheets I don't think.

7 Q. All right. Now, the next matter that
8 we failed to deal with last week was the demonstration
9 of the planning process which requires a consideration
10 of alternative locations where you are going to cross
11 an area of concern. I understand that is addressed by
12 page No. 3 of Exhibit 864; is that correct?

13 A. Yes, that's correct.

14 Q. And do you have another larger map
15 that you wanted to put up?

16 A. Yes. We will use one of the maps
17 that we used previously for -- it's in the Little
18 Vermilion Lake and the Board should be familiar with
19 this 1:15,840 scale map that we will present here.

20 This is base map 513934, it contains
21 Little Vermilion Lake. We previously presented this
22 map as Exhibit 843. You see in the centre of the map
23 Little Vermilion Lake, Sportsman Lodge having been
24 identified on the west shore of it. And, in fact, the
25 previous allocation or the allocations that we've shown

1 or the areas selected for harvest are in yellow and
2 green on the east shore of -- or the east side of
3 Little Vermilion Lake.

4 Q. All right. Now, what was the value
5 that you were addressing or the area which gave rise to
6 the area of concern?

7 A. The value in fact is this stream
8 system that you see in the southeast corner of this
9 base map, in fact it has been reproduced at a reduced
10 scale on page 3 in Exhibit 864. You are seeing on
11 Exhibit 864 only the road locations and not the timber
12 allocations so this base map that I am presenting up
13 here has, in addition to the final selected
14 alternative, timber allocations and so on.

15 We in fact were looking at accessing
16 timber allocation No. 1 at the top in yellow, timber
17 allocation No. 2 and timber allocation No. 3, basically
18 those three portions or three blocks.

19 The stream crossing that you see here is
20 alternative No. 1. (indicating) It in fact crosses an
21 area of concern. In the documentation we show that all
22 stream crossings are in fact identified as areas of
23 concern and we show that this stream we have
24 selected -- or we show the alternative 1 here, RL1 as
25 being the point on that stream that we intend or that

1 we had scheduled for crossing.

2 When you look at page 3 of Document 864,
3 it's identified in as a pink circle with an RL1 in the
4 centre. Just below that there is a small circle with
5 the number 3 in it. That is alternative 3, road
6 corridor No. 3 or alternative No. 3 that crosses at RL1
7 or the the pink circle.

8 The blue incidentally simply denotes the
9 streams and the lakeshore of Little Vermilion Lake. On
10 the left-hand side or the west of this map Little
11 Vermilion Lake covers most of it and, in fact, the
12 stream cutting across the centre is identified in blue.

13 Q. Alternative No. 3 was the one where
14 you've got the stream crossing that you identified as
15 RL1; is that correct?

16 A. That's right.

17 Q. And could you just trace where -- the
18 entire length of alternative No. 3 on Exhibit 864.

19 A. Right. You see alternative No. 3 as
20 a centre dotted line that curves out into the
21 right-hand part of the page or the east side of the
22 page. It in fact moves down towards the bottom and
23 seems to end. That in fact is where it connects to the
24 existing Silver Road. The existing Silver Road was
25 closed to public travel for the previous -- during the

1 previous five-year term or ten-year operating plan
2 period. Once it was constructed had in fact been
3 closed under the Public Lands Act.

4 So we are talking about a closed road
5 here. We are talking three alternatives; alternative
6 No. 3 being the alternative that was finally selected
7 with Red Lake 1 being the crossing that was identified.

8 Q. So then alternative No. 3 then starts
9 at the bottom here where you have got the corridor,
10 goes out to the east, goes across RL1 and proceeds
11 north?

12 A. That's correct.

13 Q. And the existing Silver Road which
14 you have made a note of in the bottom right-hand corner
15 of Exhibit 864 -- actually, can you just sort of
16 indicate where on Exhibit 864 that existing road would
17 link up?

18 A. It connects from where it says Silver
19 Road existing to the bottom of the dotted line that is
20 the beginning of the alternative 3.

21 Q. All right.

22 A. The alternative that was examined for
23 crossing the area of concern is identified on road
24 corridor alternative No. 1 or the corridor that is the
25 furthest west. It's identified as a green circle on

1 Exhibit 864 and it was -- from field inspections and so
2 on it was determined that that was the only other
3 likely place or suitable crossing spot for construction
4 or whatever or crossing of that stream.

5 So what we are seeing is two alternatives
6 identified. The selection was in fact Red Lake, number
7 1, which you see in pink. It's the furthest from
8 Little Vermilion Lake which has the high value fly-in
9 tourism industry impacting Sportsman Lodge, is almost
10 directly across the lake from where that stream
11 crossing takes place.

12 This is Sportsman Lodge (indicating) and
13 the stream crossing was selected being over here
14 (indicating) which in fact moved that road corridor
15 approximately half a kilometre or a kilometre further
16 to the east away from Little Vermilion Lake.

17 It was also from topographic features and
18 site types a more suitable location. As you move
19 towards Little Vermilion Lake it becomes lower, more
20 silt and considerably wetter in nature, and alternative
21 No. 3 in fact follows terrain that's slightly higher
22 and drier in nature.

23 Q. And why was that, why are you
24 pointing out that factor; what's the significance of
25 the different soil conditions?

1 A. The case there is that obviously
2 construction, road construction costs and abilities are
3 heavily determined by soils conditions and moisture
4 content.

5 And, in this case, the two stream-
6 crossings, by selecting one or the other, led to the
7 identification of the alternative corridors. For
8 example, by selecting RL1, the final alternative, we in
9 fact approved construction of the road in the furthest
10 east location.

11 Had alternative number -- or the second
12 alternative which is in green on the map led to the
13 identification of the corridor moving directly south,
14 or corridor No. 1, and really those corridors were
15 determined, to a large extent, by the stream crossings
16 or the areas of concern, where we could cross the areas
17 of concern from a physical aspect.

18 Q. Was an increased risk of siltation
19 considered?

20 A. Yes. Once again, simply the distance
21 along the stream that we moved away from Little
22 Vermilion Lake influenced the amount of siltation that
23 perhaps could occur in that stream and move downstream
24 into Little Vermilion Lake which contains both pike and
25 walleye, and there was a certain amount of concern that

1 siltation from road construction activities would, in
2 fact, get into the stream system there, and by moving
3 it further east, the stream was slightly smaller in
4 size and there was more distance between the walleye
5 and pike fishery in Little Vermilion Lake as a result
6 of that.

7 Q. Now, you indicated that the
8 alternative then which was actually chosen, the route
9 was Route No. 3?

10 A. That's correct.

11 Q. Now, there are actually two other
12 alternative locations; are there not?

13 A. Yes, 1 and 2. 2 is simply -- was an
14 alternative location around that small lake in the
15 centre of the page and, in fact, the alternatives there
16 were to go either to the west or the east of that small
17 pothole lake.

18 Q. And the small pothole lake would be
19 the little area southwest of the number 2 which is 919?

20 A. That's correct.

21 Q. And if we go up corridor No. 3, which
22 was the one that was actually selected for the reasons
23 you have indicated, just below the number 3 there is a
24 branch of that road which goes off to the west. Was
25 that branch going off to the west part of alternative

1 No. 3 which was approved?

2 A. Yes, it was.

3 Q. And the reason for that branch?

4 A. It was to provide all-weather access
5 into the allocations that were on the south side of
6 that stream system.

7 If you look in at the 1:15,840 scale base
8 map here (indicating) you will see that allocation No.
9 4 has a long extension that moves off to the east.
10 That branch road runs down the centre of it and, in
11 fact, accesses block No. 4.

12 Q. Mr. Multamaki, for the record, could
13 you advise where in exhibit - I think it's 814 - that
14 we will find reference or the description of the
15 planning of this particular road?

16 A. Yes. This road is identified as road
17 No. 1 and it's found in Book 7, pages 5 to 9.

18 MR. FREIDIN: So that will be Tab 7 of
19 Exhibit 814, Mr. Chairman.

20 Q. And, again, do you intend to review
21 that documentation today?

22 MR. MULTAMAKI: A. No, I don't think
23 there is any need to go back to the roads
24 documentation.

25 Q. Mr. Bisschop, I would like to ask you

1 a question which basically arises out of your evidence
2 regarding primary road corridors and particularly the
3 influence that preliminary areas of concern could have.

4 The question arises out of a discussion,
5 if you will, between yourself and Mrs. Koven. I am
6 referring to Volume 137 commencing at page 23255.

7 Mrs. Koven asked whether the mapping of
8 primary road corridors was a bit distorting and, in
9 that vein, she suggested that because of identifying
10 clusters of values there was perhaps safety in numbers
11 because you will take a wider path around a cluster
12 area than you will one particular point.

13 And I assumed when she mentioned one
14 point that she was referring to one value by itself.
15 Did you understand her to be referring to that?

16 MR. BISSCHOP: A. Yes, I did.

17 Q. Now, you agreed that there was a
18 distortion. What I would like you to advise is: What
19 was the factual situation that you had in your mind
20 when you answered Mrs. Koven's question? In other
21 words, where was this single value vis-a-vis the
22 cluster?

23 A. I think to address this question,
24 Mrs. Koven, I think there may have been some confusion
25 in terms of my understanding and the response I gave,

1 and I think perhaps it might be best to revisit this
2 question.

3 If I can use the flip chart and try to
4 draw a schematic and illustrate my understanding of
5 what your point was and we could carry on the
6 discussion from there and try to address the concern
7 that you raised.

8 If you will recall from my discussion of
9 use of the values map to create preliminary areas of
10 concern through a generalization and, in particular,
11 dealing with the question of clusters, looking at
12 clustering and drawing a generalization around a
13 cluster, it's what I have indicated on the right of the
14 figure.

15 And my understanding of the question of
16 distortion was that, if I had a single value from the
17 values map that I didn't group with the cluster, that
18 there would be distortion in terms of, if you will, the
19 influence that the collection of those individual
20 values had relative to that single value in terms of
21 determining where a one-kilometre road corridor would
22 be.

23 So, in other words, assuming that the
24 preliminary areas of concern were an influencing factor
25 in determining the location of corridors, I would

1 locate a corridor, for argument sake, that went through
2 here (indicating) - and it may be closer to that value
3 which one might argue has more significance than any of
4 the values that appear in this cluster - and,
5 therefore, there was distortion in terms of the
6 emphasis placed on this group of values, including one,
7 for example, as far away as that (indicating) relative
8 to that single value.

9 That's how I understood the point that
10 you were making. Is that...

11 MRS. KOVEN: Yes, that was my observation
12 when you were going through that.

13 MR. BISSCHOP: Okay. Now, what I would
14 like to emphasize is that when it comes to the question
15 of identifying one-kilometre corridors, as I think I
16 indicated in the evidence, first of all, preliminary
17 areas of concern are one consideration in terms of
18 determining location. There are others such as
19 obviously the areas that are eligible, topographic
20 features, et cetera, that would influence where the
21 corridor would be located.

22 So, in this case, assuming that the
23 preliminary area of concern was a determining factor, I
24 would have located a corridor in this location.
25 (indicating) That arguably may have been in closer

1 proximity to a value that might have been more
2 important than any in the cluster.

3 We would take into consideration not only
4 the clustering, the preliminary area of concern, when
5 we are identifying the corridor by the planning team we
6 would also, as I indicated in the evidence I think,
7 look behind the clustering, which I referred to in
8 yellow on the previous exhibit, see what those values
9 are, what that value is, and make a decision as to
10 where the corridor ought to go. That would be one
11 factor that comes into play.

12 So our planning team would take those
13 values into consideration when they are identifying the
14 corridor location. It may be that when the planning
15 team is doing that that perhaps the attention that
16 needed to be drawn to that value wasn't there.

17 Through public consultation, an
18 interested or affected party concerned about that value
19 may have brought to the attention of the planning team
20 that this ought to be given more consideration than it
21 has and that could cause an adjustment in terms of the
22 location of one-kilometre corridors. So, through
23 public consultation, there will be confirmation or
24 change to the subject of where that corridor would be
25 located.

1 So there is a check, if you will, I
2 guess, on how those corridors would be identified.

3 MR. FREIDIN: Do you want to mark that as
4 an exhibit, Mr. Chairman?

5 THE CHAIRMAN: Okay. Exhibit 865. What
6 do you want to entitle it?

7 MR. FREIDIN: Drawing regarding primary
8 road corridor affected by preliminary area of concern.

9 ---EXHIBIT NO. 865: Drawing regarding primary
10 road corridor affected by
 preliminary area of concern.

11 MR. FREIDIN: Sorry to block off the
12 witnesses at the end with the map here.

13 Q. Mr. Multamaki, I put up Exhibit 843
14 and I wanted to ask you some questions about the bar
15 charts that we have on this particular document. I
16 believe you actually discussed the bar chart when we
17 discussed Exhibit 843.

18 There are just a couple more questions I
19 would like to ask you about those. First again, could
20 you refresh the Board's memory as to what those bar
21 charts indicate?

22 MR. MULTAMAKI: A. Certainly. Those bar
23 charts were --

24 Q. Mr. Multamaki, hold on.

25 A. Sorry. Those bar charts were my

1 estimate as the plan author of the silvicultural system
2 or activities that were going to take place within the
3 allocations. For example, in the harvest allocations
4 it denoted the method of harvest, such as clearcut; the
5 type of site preparation, light or heavy mechanical;
6 the type of regeneration technique, planting, seeding
7 and so on; and the type of -- or the tending, whether
8 or not tending was required.

9 They were simply estimates or predictions
10 of what would take place by block on those allocations
11 on the Red Lake Crown and, in fact, they were also done
12 for the silvicultural allocations as well with
13 obviously the first -- the harvest cut section missing.

14 Q. Now, did those particular bar charts,
15 where you estimated or predicted what was going to
16 happen by block, have any relationship to the
17 silvicultural ground rules?

18 A. Yes, in fact they did. It denoted
19 one of the options from the silvicultural ground rules
20 and, in fact, if you were to look at the bar charts
21 they would be in keeping with the direction given in
22 the silvicultural ground rules.

23 Q. If you looked at the silvicultural
24 ground rule -- well, I understand what you did was you
25 made an estimate or a prediction regarding the site

1 description that you would encounter in the particular
2 block; is that correct?

3 A. Yes, that's correct, that we looked
4 at and made a prediction on the site types or the sites
5 that would be encountered within the block and the
6 total silvicultural system that we estimated would be
7 applied to that block.

8 Q. Was the estimate of the method of
9 harvest, site prep, regeneration type and tending that
10 would appear on that bar chart be the only option which
11 was approved in the silvicultural ground rules for the
12 site types that you estimated would be encountered in
13 the block?

14 A. No. It was my understanding that
15 those were, again, my best estimate on what was to take
16 place and, in fact, it was understood that they were
17 not completely accurate and that, in fact, changes
18 would take place during the five-year term of the plan,
19 but they would be in accordance with approved
20 operations under the silvicultural ground rules.

21 Q. Why did you put those bar charts on
22 your maps?

23 A. At the time that this plan was
24 prepared we assumed that it was a requirement under the
25 TMP process. When we prepared the plan, it was one of

1 the first plans prepared in the province and there was
2 a certain amount of confusion as to the level of
3 information required on the maps, particularly with
4 respect to silvicultural operations and so on.

5 Q. And I understand that, in fact, it
6 was not a requirement at the time?

7 A. No, it was not.

8 Q. Now, is it a requirement to produce
9 these sorts of bar charts or make predictions in a
10 similar fashion under the present proposed planning
11 process?

12 A. No, it's not.

13 Q. Should it be, in your opinion?

14 A. No, I don't feel that it should be.

15 After having gone through that exercise I find that it
16 leads to unrealistic expectations; for example, that in
17 fact the operations that are shown in those bar charts
18 will in fact take place, and not one of the other
19 alternatives identified in the silvicultural ground
20 rules.

21 It also is misleading to the other
22 resource managers and the general public. When you
23 show your best estimate and the situation changes or
24 you select another approved alternative, it misleads
25 the other resource managers that are involved and the

1 general public.

2 Q. And, in a general way, Mr. Multamaki,
3 why do you believe that -- or what causes the
4 prediction to perhaps provide unrealistic expectations
5 or, in some cases, to be misleading?

6 A. There's a wide number of factors that
7 are highly variable in nature that come into play when
8 you attempt to make these predictions, some of which
9 seem relatively simple and others that are extremely
10 complex and uncontrollable.

11 Q. Could you provide the Board with some
12 examples of how variability of a particular factor or
13 factors could affect the appropriateness of following a
14 prediction to implement silvicultural activities in
15 accordance with specific -- in a specific way as
16 identified in a bar chart?

17 A. Certainly. We have got four, I
18 think, easy examples. The first one being the numbers
19 and type of stock available.

20 Obviously the stock is tied to the
21 harvest schedule. Should the stock change in any
22 fashion; for example, if the stock availability were to
23 go up, where we had predicted seeding, in fact we may
24 plant, both of them acceptable under the silvicultural
25 ground rules.

1 If stock availability should go down for
2 various reasons, where we predicted that we would plant
3 we may in fact seed.

4 Once again, this is tied to the harvest
5 schedule. You make the prediction based on harvesting
6 the, I guess the scheduled amount of timber; i.e.,
7 one-fifth of the five-year operating plan, or five-year
8 timber management plan allocation. If that doesn't
9 occur, that can have an effect on the silvicultural
10 program.

11 Also it can change considerably with
12 things such as market shifts; i.e., a company suddenly
13 shifts to a different product requirement; for example,
14 moves from conifer material to hardwood material. This
15 will, in fact, generate different site types and a
16 different requirement for silvicultural programs.

17 Also, labour disputes. When you have a
18 labour dispute you may, in fact, generate less area
19 that's available to implement silvicultural operations,
20 and, in fact, you end up with something different.

21 Q. Mr. Multamaki, in terms of a market
22 fluctuation, if there was a change in the market, such
23 that you wanted to harvest more in a particular year
24 than you had originally planned, to take advantage of
25 the market, could that have an effect on actually

1 implementing the prediction that you might have had in
2 the bar chart?

3 A. Yes, certainly, it could. If, in
4 fact, you end up harvesting more area in one or more of
5 the five-year plan periods you would, in fact, generate
6 more sites that are available to the silvicultural
7 program and, in fact, it would result in a redirection
8 of things like planting stock, aerial seeding and
9 natural regeneration techniques and they may not
10 necessarily agree with what the bar charts, for
11 example, that I placed on the maps show.

12 Q. Is it possible in that situation that
13 you might not have enough planting stock to, in fact,
14 plant all the sites where you believed and indicated in
15 the bar chart that you were going to plant?

16 A. Yes, that would be a very realistic
17 estimate of what would take place. In fact, we would
18 have areas that showed to be available for planting,
19 but we would not have planting stock available for it
20 and, in fact, we may see or regenerate those areas
21 naturally, again, in keeping with the options approved
22 under the silvicultural ground rules.

23 Q. And if the market swing went the
24 other way and it went down and you had originally
25 intended to plant areas that you were going to harvest,

1 but because the market went down you didn't, could that
2 have an effect on a prediction that you were going to
3 in fact -- how you are going to deal with other areas?

4 A. Yes. What would take place there is
5 that, in fact, if you had less area available to the
6 silvicultural program you would still plant the stock
7 that's available; however, you may in fact be planting
8 areas that you had scheduled or predicted would be
9 aerial seeded or left for natural.

10 You know, you would take care of the
11 planting program essentially first and perhaps plant
12 areas that you had predicted would in fact be seeding,
13 again, in keeping with the silvicultural ground rules.

14 Q. Mr. Multamaki --

15 MR. MARTEL: Could I ask a question?

16 MR. FREIDIN: Yes, sir.

17 MR. MARTEL: When you have a five-year
18 plan it tells you the amount you are going to -- as
19 part of the five-year plan, you know how much you are
20 going to cut ahead of time, or an estimate at least.

21 How great could that variance be in that
22 you can't go beyond the amount that was allocated in
23 the first place during the five years of operation?

24 MR. MULTAMAKI: Yeah. What you are
25 talking about there, as I understand it, is how much

1 could be cut, for instance, in any given year of the
2 five-year period.

3 And, in theory, you could cut as much as
4 the entire five-year allocation in any one of the
5 years. In reality that generally doesn't take place,
6 in fact, I've never heard of it.

7 Usually you try to have relatively even
8 woodflow which means one-fifth of the allocation each
9 year, but there are variances to take advantage of the
10 market situations and so on.

11 MR. FREIDIN: Q. Is the planting stock
12 that you order or that you ask for connected in any way
13 to the level of harvest that you are anticipating in
14 each of the five years?

15 MR. MULTAMAKI: A. What we have is we
16 have a five-year stock forecast and, in fact, for
17 things like bareroot planting stock, you forecast in
18 advance the stock that you require for a future period.
19 For bareroot stock it's generally three to five years
20 that you need to know about it, plant it and so on.

21 Q. But it all doesn't come in one year?

22 A. No, certainly it's spread over the
23 five-year period.

24 Q. So if in one year you actually
25 harvested more than you thought you were for reasons

1 like taking advantage of market and you had planned to
2 in fact plant those areas, you might have a shortfall
3 of stock to plant that and you would go to the seeding
4 alternative as you indicated in your example?

5 A. That's correct.

6 Q. Now, very briefly could you just
7 provide the three other examples?

8 A. The second example I was going to use
9 was access. For example, should there be a lack of
10 funds to construct roads you may, in fact, have looked
11 at constructing a summer road, in fact, it got --
12 because you were harvesting in the area, you
13 constructed a winter road, it wasn't up to standards,
14 you didn't have all-weather access into the area and,
15 therefore, you could not do summer mechanical site
16 preparation.

17 This may, in fact, have changed the
18 summer mechanical site preparation into another form,
19 either winter blading or prescribed burn and, in fact,
20 that could show a shift, simply because of the
21 mechanical capabilities or limitations of moving
22 equipment over roads that aren't constructed to
23 standard.

24 Q. And, in that particular example, the
25 shift would be one from a prediction that you were to

1 mechanically site prepare but now you had to do
2 something else for the reasons you've indicated?

3 A. That's correct.

4 Q. Could weather affect your ability to
5 carry out a particular type of silvicultural activity
6 in accordance with a bar chart-type approach?

7 A. Certainly. The first two I've
8 mentioned, in fact, are reasonably controllable, stock
9 and access. Weather is something that, as much as we
10 would like to have control of it, we don't; we seem to
11 be always subject to the elements.

12 One program that's particularly subject
13 to that are things like aerial spraying, windows, there
14 is a very narrow time frame when, in fact, you can
15 apply aerial chemicals. You have very narrow, what we
16 call spray windows. Also prescribed burn parameters;
17 for example, if you have a hot, dry summer, a
18 prescribed burn is unlikely to take place for obvious
19 safety reasons and so on and control purposes.

20 In the both of these cases it may lead to
21 mechanical site preparation rather than prescribed burn
22 or rather than, say, aerial application for site prep
23 purposes of chemicals.

24 Q. And in that particular case, again,
25 the hypothetical you are talking about would be one

1 where the bar chart would specify either chemical
2 tending or prescribed burn?

3 A. That's correct.

4 Q. Okay.

5 A. And, in fact, what would take place
6 is mechanical site preparation.

7 Q. And the last example I understand
8 that you want to give is to indicate how a natural
9 agent of change such as fire or blowdown could affect
10 your ability to actually do the one option that was in
11 the bar chart?

12 A. Certainly there are unaccounted for
13 natural disasters that may take place such as natural
14 occurrences that may take place such as fire and
15 blowdown. This, in fact, may result in a redirection
16 of the silvicultural program to regenerate these areas
17 where these disturbances have taken place.

18 For example, should a fire occur in a
19 young plantation area, let's say we have a two-year-old
20 plantation, it's the third or fourth year of the plan,
21 it has already been site prepared, it's been planted
22 it's growing quite well, it burns during the plan
23 period, at that point we would consider going back,
24 replanting the area with stock that would be redirected
25 from someplace else on the unit and, in fact, we would

1 regenerate it.

2 One of the rationales I guess behind that
3 is that we already have an investment in that
4 plantation in the form of site preparation and so on to
5 get the initial plantation in there. If it burns we
6 are just further ahead to replant it and not having to
7 incur the initial site prep costs and so on.

8 So that is an example of where an
9 uncontrolled event could redirect the silvicultural
10 program and, in fact, make those estimates inaccurate.

11 Q. The estimates referring to what
12 areas?

13 A. With the bar chart and, in this case,
14 it would be the -- perhaps both the -- or any part of
15 the silvicultural program from site preparation to
16 planting and perhaps even tending.

17 Q. Okay. Now, you said, Mr. Multamaki,
18 that you don't believe that showing this prediction by
19 way of a bar chart, for instance, should be a
20 requirement and you indicated that your reasons for
21 that were that it gave rise to unrealistic expectations
22 and could be misleading in some cases.

23 Hypothetically, if someone just said to
24 you: Mr. Multamaki, I accept there are all of these
25 possibilities, it may be unrealistic, it may be

1 misleading in some cases but do it anyway, put your
2 best estimate on the map in any event; would you have
3 any concerns about doing that?

4 A. Yes, I guess I always have concerns
5 with the 'do it anyway'. One of the problems that I
6 see coming up is that it may be tied to the amendment
7 process and that would be a real problem.

8 For example, should we require an
9 amendment to move between the options in the
10 silvicultural ground rules, biologically we would be
11 waiting for an administrative process to allow us to do
12 what is correct for the site and it wouldn't be serving
13 any useful purpose and, as I have previously stated,
14 there are a great number of factors that can influence
15 an estimate of this nature.

16 And I think if we had to -- or if you
17 were asked to do it anyway, my suggestion is that we
18 would have to be able to move within the options
19 available under the silvicultural ground rules.
20 Now, -- with no administrative problems or
21 encumbrances.

22 For example, where site conditions match
23 what we think they are but the option we have
24 identified is, in fact, not the option we want to apply
25 or we need to apply, we should be able to select

1 another approved option with no administrative concerns
2 or issues.

3 The second example I can think of is that
4 if the site identification is, in fact, incorrect,
5 we've stated that the site is such and such a type but,
6 in fact, when we get there it's not, we should be
7 allowed to move to -- or, in fact, identify what the
8 site type actually is and select one of the approved
9 options from the silvicultural ground rules for that
10 site type.

11 THE CHAIRMAN: Why wouldn't you be able
12 to do that in any event, if it's an alternative allowed
13 by the silvicultural ground rules and if it's something
14 that is not in breach of applying those ground rules as
15 you are required to do?

16 MR. MULTAMAKI: I guess it's my fear that
17 we would not be allowed to do that without an
18 amendment; i.e., you have identified that you are going
19 to light mechanically site prepare this, tree plant it
20 with bareroot container stock and tend it in such a
21 fashion. If you vary from that, you have to go through
22 the amendment process even though it's approved in the
23 silvicultural ground rules.

24 That's part of my fears on this, is that
25 we would not be allowed, or the unit forester or the

1 unit manager would not be allowed to select from one of
2 those options without an amendment.

3 THE CHAIRMAN: Well, why can't that be a
4 condition in the plan that says: Flexibility is
5 allowed to the extent of applying any approved
6 alternative within the silvicultural ground rules?

7 MR. MULTAMAKI: It is right now, in fact,
8 that is exactly what is in the plans, is that you can
9 select from the alternatives.

10 MR. FREIDIN: Q. So what you are saying,
11 Mr. Multamaki, is that if this requirement was imposed
12 you wouldn't want anything to change in terms of how
13 you can, in fact, implement options approved in the
14 silvicultural ground rules?

15 MR. MULTAMAKI: A. That's correct.

16 Q. Okay. Mr. Groves, where are you?
17 Mr. Groves, you've been waiting a long time. I would
18 like to deal with you in relation to Document No. 5
19 which appears in Exhibit 813B commencing at page 524.

20 MR. FREIDIN: Mr. Chairman, I would like
21 to mark as the next exhibit a copy of two overheads
22 that Mr. Groves will use and perhaps we can just
23 entitle them: Overheads Document 5 Annual Work
24 Schedule.

25 THE CHAIRMAN: Exhibit 866.

1 MR. FREIDIN: (handed) We will mark
2 those 866A and B, Mr. Chairman.

3 THE CHAIRMAN: Very well.

4 ---EXHIBIT NO. 866: Hard copy of two overheads re:
5 Document 5 entitled: Annual Work
Schedule (Pages A & B).

6 MR. FREIDIN: Q. Mr. Groves, what is an
7 annual work schedule and where does it fit into the
8 timber management planning process?

9 MR. GROVES: A. Okay. Like the name
10 applies, the annual work schedule is not a plan, it's
11 simply a schedule of activities that are to take place
12 in the upcoming year.

13 The activities that are scheduled are
14 those that have already been approved in the timber
15 management plan, so they have already gone through a
16 planning process and now the author of the AWS is
17 simply scheduling those activities to take place. The
18 annual work schedule also must be approved before any
19 of those activities can take place.

20 Like the timber management plan, there
21 are opportunities to make changes to the annual work
22 schedule. We have called those revisions and they take
23 place throughout the year. Also like the timber
24 management plan, the review that does take place before
25 it is approved is a multi-disciplinary review. It's

1 not strictly the forest management branch, all services
2 either sit down at the same time or at different points
3 of time and review the annual work schedule.

4 Q. And that review, does it occur at all
5 the three levels or just one of the levels; district,
6 region and at main office, or is it just one of those?

7 A. Mandatory is just at the district
8 level. Once it has gone through that review and has
9 been found to be satisfactory and containing only
10 activities that were approved in the timber management
11 plan, then a public notice of inspection is then sent
12 out which notice appears in the newspaper saying that
13 the annual work schedule is available to be inspected
14 and then all interested parties immediately affected by
15 those activities also receive written notification and,
16 in some instances, verbal notification of parties is
17 also done.

18 Q. Mr. Groves, is there any limit placed
19 on the percentage of operations which are approved in
20 the timber management plan which can be implemented
21 annually and, therefore, be included in an annual work
22 schedule?

23 A. Yes. As Mr. Multamaki mentioned
24 earlier, the annual work schedule does allow to the
25 maximum but there is a requirement to discuss any

1 difference in what is referred to as the average
2 annual. And if I -- I would like to take you to the
3 timber management plan which is Exhibit 7 and turn to
4 page 114.

5 Q. This is the Timber Management
6 Planning Manual?

7 A. Yes. And I would like you to turn to
8 the second paragraph under Depletion Area and there it
9 states:

10 "Should the annual area scheduled for
11 depletion not be an approximate agreement
12 with the annual average rate of depletion
13 for a working group or a forest unit for
14 the five-year term, the text should
15 include an explanation of that."

16 I don't think it's necessary, but the
17 same requirement does show up in other sections of the
18 annual work schedule and page 123 talks about for
19 renewal and maintenance.

20 Q. It appears in the Timber Management
21 Planning Manual?

22 A. That's in the Timber Management
23 Planning Manual, yes.

24 Q. Why is that a requirement, Mr.
25 Groves?

1 A. As we have talked about earlier, the
2 activities that take place in any one year are often
3 linked to activities that might take place in
4 subsequent years; i.e., if you are going to accelerate
5 the harvest for any particular year, that might mean
6 there is going to be more silvicultural activities;
7 i.e., site preparation and stock or seed required to
8 plant on those areas so, therefore, it's a kind of a
9 notice that, okay, if you are going to increase one
10 activity you might have to plan for seeding for more
11 stock for subsequent years which you maybe had not had
12 scheduled for in your five-year stock forecast.

13 So there is that link that is required
14 and that is what the annual work schedule is for, and
15 also it's just a notification to all those who are
16 reading the document that not all activities will
17 appear exactly one fifth and it gives an explanation of
18 why those activities are taking place.

19 The annual work schedule also kind of is,
20 in some cases, a monitoring document in that it allows
21 one to get an idea how timber management planning
22 objectives are being met. If you know you are
23 always -- say, planning for one fifth and one year you
24 are catching up, it gives you an idea of how the person
25 is achieving in their objectives. So it gives you an

1 idea how the process is going on on an annual basis.

2 Q. Is there any example in the Red Lake
3 annual work schedule where the activity in the annual
4 work schedule exceeded the average annual rate of one
5 fifth?

6 A. Yes. I would like to have the Board
7 turn to, I believe it's 813B, and page 550 of that
8 document. Okay. On the top paragraph of that document
9 it says:

10 "The over allocation in the jack pine
11 working group is 161 hectares, is a
12 product of the present access, allocation
13 and licensing program and also the result
14 of a management decision to produce and
15 sell the maximum amount of jack pine
16 pulpwood during the 1988-89 season.
17 Since this market shows signs of
18 deterioration over the next several
19 years, it was projected that with the use
20 of poplar in the Great Lakes Forest
21 Products Limited pulp mill in Dryden a
22 significant amount of jack pine will be
23 replaced. It is our intent to deliver as
24 large a volume of jack pine pulp to this
25 mill as possible prior to the poplar

1 coming on stream."

2 This was a factor that Mr. Multamaki had
3 an idea might happen when he was doing his timber
4 management plan. And as progress in mill modifications
5 did develop, we did know by the year 1988-89 that the
6 jack pine demand from the Red Lake Crown Unit was going
7 to decrease over time, so this was the last year that
8 we wanted to take advantage of that high demand and, in
9 reality, the next year it did decrease and that we now
10 no longer have anywhere near the demand of that jack
11 pine pulpwood from that unit.

12 Q. And this annual work schedule which
13 is contained in Exhibit 813B, would that be available
14 for public inspection so that if someone was concerned
15 or wanted to know how much activity was being planned
16 and whether it was more or less than the one fifth,
17 this particular passage would be available for their
18 inspection?

19 A. The annual work schedule is available
20 for inspection for the entire period of the inspection;
21 i.e., if it's for April 1st to March 31, then once the
22 notices go out that document is available in the office
23 for anyone to come in and read.

24 Q. What information is contained in an
25 annual work schedule and in what form is that

1 information conveyed?

2 A. The annual work schedule is in the
3 same format as a timber management plan. What I mean
4 by that is the sections appear in the same order as
5 they do in the timber management plan and the forms
6 themselves are kept to the same style and format and
7 the only thing that changes is the title, and it says
8 this is the annual work schedule for the following year
9 and for what management unit. That is the only
10 difference really.

11 Q. When you say the forms remain the
12 same, what do you mean by forms in that context?

13 A. Okay. If you were to take in the
14 timber management plan, say Table 4.19 - which I don't
15 think we have to refer to it - that is the renewal and
16 maintenance table, we have seen it often, the exact
17 same form except it's titled Table 5.4 renewal and
18 maintenance for the annual work schedule year shows up
19 in the AWS.

20 MR. FREIDIN: And just for reference, Mr.
21 Chairman, Table 5.4 for the annual work schedule April,
22 '88 to March 31st, 1989 is found on page 556 of Exhibit
23 813B.

24 Q. Now, you indicated that the form was
25 the same, so we have tables. Do maps form a component

1 of annual work schedules?

2 A. Yes. Like the timber plan most of
3 the maps are attached in the appendix but, again, it's
4 the same maps that show up in the timber management
5 plan.

6 Q. And we see from the document and the
7 examples that you have already referred to that there
8 is text or a narrative discussion of what is going to
9 occur in that year?

10 A. That's correct.

11 Q. All right. I would like to deal with
12 each of those components separately, Mr. Groves. So
13 first if we might start with the map component of an
14 annual work schedule, what maps are produced as part of
15 an annual work schedule?

16 A. I think I would like to take this
17 time to set up a couple of maps.

18 Q. How many stands do you need?

19 A. Two stands.

20 THE CHAIRMAN: Why don't we take the
21 morning break at this time, Mr. Freidin.

22 MR. FREIDIN: All right.

23 THE CHAIRMAN: 20 minutes.

24 ---Recess taken at 9:55 a.m.

25 ---On resuming at 10:30 a.m.

1 THE CHAIRMAN: Thank you. Be seated,
2 please.

3 MR. FREIDIN: Q. Mr. Groves, before we
4 get into the map component of the annual work
5 schedules, can you just go back to Exhibit 866A. You
6 indicated that one of the characteristics of an annual
7 work schedule is that there are provisions for in-year
8 revisions. Perhaps you could indicate what you mean by
9 revisions in that context?

10 MR. GROVES: A. Right. What I mean by
11 revisions in that context is that if you wish to, say,
12 schedule another activity that was approved in the
13 timber management plan, i.e., an additional harvest
14 block or an additional area which you wish to carry out
15 site preparation on, but is still an approved activity
16 in the timber plan that you are just rescheduling or
17 adding to the existing schedule for that schedule year.

18 Q. If you wanted to carry out something
19 in that annual -- in that year which was not approved
20 in the annual work schedule, what would you have to do?

21 A. Then before anything is carried out
22 in an annual work schedule that is not approved it must
23 go through the amendment process for timber management
24 plans which we discussed earlier.

25 Q. Thank you. Okay. So if we could

1 move to the map component of annual work schedules, you
2 have put up two maps. Perhaps you could just begin by
3 describing the two maps that you have up, and we will
4 have to mark one of them as an exhibit.

5 A. Yes. I have two maps up here, one
6 which you have seen before, that is Exhibit 840, it's
7 the harvest and renewal and maintenance areas for the
8 1986-1991 period. And the new exhibit is the Red Lake
9 Crown Management Unit annual work schedule map for the
10 1988-1989 fiscal year and it's on the scale of
11 1:50,000.

12 THE CHAIRMAN: Exhibit 867.

13 ---EXHIBIT NO. 867: Red Lake Crown Management Unit
14 annual work schedule map
1988-1989.

15 MR. GROVES: I am just wondering, because
16 of the detail, the maps might be easier for the Board
17 if they came down, some of the cross-hatching is hard
18 to see from a distance.

19 THE CHAIRMAN: Very well. Just a moment.

20 MR. GROVES: Okay. It is a requirement
21 for the annual work schedule to have maps in its
22 appendix that we mentioned earlier. The option is you
23 can have 1:50,000 scale or 1:15,840 scale map,
24 whichever is your preference.

25 In this particular annual work schedule

1 we have both series of maps 1:50,000 and 1:15,840 but
2 initially I would just like to talk about the 1:50,000
3 scale and compare it to the forecasted area.

4 If you notice up in the upper right-hand
5 corner is a block of activities which were scheduled.

6 MR. FREIDIN: Q. That is looking at
7 Exhibit 867?

8 MR. GROVES: A. That's correct, Exhibit
9 867. Specifically look at the top corner block there
10 it's coloured yellow and green. Over here you see on
11 the timber management plan map that same area coloured
12 yellow and green.

13 Okay. It was scheduled five year to be
14 forecast to be harvested and in the AWS that particular
15 portion of that block is scheduled to be harvested.

16 Q. So on Exhibit 867 it's not the
17 entirety of block 1 and 2 that is scheduled, it's part
18 of block 1 and 2?

19 A. That's correct. And also I would
20 like to point out, in order to keep things clear and
21 simple, we try to follow the same legend and colour
22 scheme from the timber management plan straight through
23 the annual work schedule, so if an individual was
24 involved in reviewing the timber management plan and
25 got a familiarization of the colour scheme, the annual

1 work schedule map would also look the same.

2 We have gone into a little bit more
3 detail on the annual work schedule map in the fact that
4 we have broken down the renewal and maintenance
5 activities. If you notice also in that same block you
6 see an area cross-hatched in red.

7 Q. Which has S9 above it?

8 A. That's correct. And on the forecast
9 map that is part of what is coloured in yellow is the
10 harvesting block 5. So, therefore, the block has been
11 harvested in previous annual work schedules and we are
12 now planning on site preparing it.

13 Q. And you say --

14 A. All the renewal and activities are
15 shown, so we show site preparation cross-hatched in red
16 which you see on the legend, site preparation. Also
17 gives an S, then a number which is a reference to a
18 particular block, then we have areas cross-hatched in
19 green which resemble this block down here, (indicating)
20 that is areas where tree planting will take place.

21 We then have tending areas which are
22 coloured in solid in purple as an example down here.
23 (indicating) Now, that tending might be both
24 mechanical or chemical. We also have aerial seeding
25 areas which is cross-hatched in blue.

1 Now, since both site preparation and
2 aerial seeding take place often in the same year, you
3 see both colours show up. So in this Corallen Lake
4 area you see a cross-hatch in red first and then
5 outlined in blue, cross-hatched in blue.

6 You also see the proposed roads but we
7 will be discussing them later on. Again, we try to
8 keep the things the same as we did in the timber
9 management plan.

10 Q. And in terms of proposed roads on
11 Exhibit 867, would that be what was -- well, what does
12 that indicate when you show roads on Exhibit 846?

13 A. Okay. For instance here's a dashed
14 red line which on the map is proposed secondary road
15 and that is a road which we believe we are forecasting
16 to build in that particular schedule year.

17 Q. And in the case of primary, do you
18 have a similar indication?

19 A. Yes, but in that particular schedule
20 year I don't believe there is any primary to be built.
21 And you see something similar in all annual work
22 schedules regardless of FMA or Crown management units.

23 Q. Anything else?

24 A. That's it.

25 Q. Mr. Groves, the annual work schedule

1 we just looked at -- or the map, I am sorry, indicated
2 the type of activity that was planned and we looked at
3 that cross-hatching which indicated site prep in some
4 cases, tending, planting depending on the colour.

5 It doesn't indicate, however, exactly the
6 type of site prep or the type of tending which is going
7 to occur; is that correct?

8 A. That's correct.

9 Q. Could somebody find out from the
10 annual work schedule documentation or through some
11 other means what specific type of site prep tending or
12 any other class of activity that was going to be
13 implemented?

14 A. The best way to answer that is to
15 describe how if an individual was coming into the
16 office, what would happen. If a person came into the
17 office and said: Oh, we would like to know, say, all
18 areas in which a prescribed burn was taking place, we
19 would first take them to the appendix.

20 Q. All right. And now we are looking at
21 Exhibit 866B that you have up on the overhead?

22 A. That's correct. Because most
23 individuals are concerned about what happens in their
24 backyard, if I can relate first to a map to see the
25 activities, we would pull out the 1:50,000 or the

1 1:15,840 scale map to show them the activity.

2 From the map you would then see, as in
3 Mr. Multamaki's maps, a reference to a subsequent
4 block; i.e., on the -- if you remember, on the site
5 preparation block it said S9, you could then look in
6 that appendix, there would be a listing for S9 saying
7 that is going to be a mechanical site preparation block
8 or a prescribed burn block and, in the case of a
9 prescribed burn, it would probably also refer one to a
10 specific project plan which you see as the green blocks
11 on the overhead and take you down and provide you then
12 more detail.

13 But also if the questions weren't
14 answered, you can also then go back to the main body in
15 the text and the tables of the annual work schedule
16 which should provide you the details of how much was
17 there and possibly particular instances of when it was
18 going to be scheduled.

19 Q. And would there be someone available
20 in the district office to assist this person if they
21 came in and were interested in this sort of
22 information?

23 A. The idea is to have the document
24 prepared such that an individual can go through it
25 themselves, but upon arriving at an office one of the

1 staff member would be then taking the person to the
2 annual work schedule, showing them where it is and
3 leading them through the annual work schedule and being
4 there to answer any questions that might arise from
5 reviewing it.

6 Q. Now, could you choose one or -- could
7 you choose one or two activities to demonstrate perhaps
8 in a little bit more detail where this information is
9 located and the type of detail that would be provided
10 particularly as to when, where, and how the particular
11 activities were to occur?

12 A. Okay. I would like to take two
13 activities and those are prescribed burn and aerial
14 tending with herbicides.

15 Q. So if we start off then, if we went
16 to the map, in terms of prescribed burn, the hash mark
17 would indicate that it was an area to be site prepared?

18 A. That's correct. It would be, in this
19 particular incident, cross-hatched in red.

20 Q. And in the second example you are
21 going to use, if it was chemical -- if it was an area
22 which was going to be tended, it would be cross-hatched
23 but there would be no indication on the map whether it
24 would be mechanical, chemical or --

25 A. That's correct. In this incident

1 they are coloured solid in purple and there would be
2 reference to the specific document.

3 Q. Any particular reason you chose those
4 two?

5 A. Chose the two colours?

6 Q. No, those two examples, the PBs and
7 chemical application of -- or the application of
8 herbicides?

9 A. Yes, those two particular activities
10 have caused concern and were brought up both during the
11 scoping session and in earlier panels, that people were
12 concerned about where they can find the information
13 about them and to what detail the information is
14 provided.

15 With regard to prescribed burns one
16 would, as mentioned earlier, see on the map that the
17 area was cross-hatched in red and it would refer to a
18 number. So you would go to the appendix and look for
19 the detailed map of the prescribed burn area.

20 It would also then refer you to the
21 detailed project descriptions or the project plan which
22 is then prepared by the fire organization which a copy
23 would be available with the annual work schedule in the
24 forest management office.

25 So if an individual wanted to know (a),

1 first where, the annual work schedule would tell them
2 that, it would also tell them how much was going to be
3 done; i.e., the size of the prescribed burn, and if you
4 wanted to know specific details with regard to how the
5 prescribed burn was going to be carried out, the
6 prescribed burn plan itself, which is an entire
7 separate document, would be with the annual work
8 schedule, describe that.

9 And, as has been pointed out in previous
10 panels, it outlines how the burn is going to take
11 place, communication plans, safety plans and all the
12 other details associated with carrying out a prescribed
13 burn.

14 The text of the annual work schedule also
15 would identify that a prescribed burn would be taking
16 place and why it was taking place and approximately
17 what time or the season the burn would be scheduled
18 for.

19 With respect to aerial application of
20 herbicides, a similar thing would be shown, in that it
21 would be firstly identified on a map as a tending
22 block, the appendix would clearly identify either on a
23 subsequent map or a subsequent list or table that it
24 was an aerial tending block and the chemical to be
25 used, and it would refer you to a detailed project

1 description which is part of a spray package which you
2 heard about in Panel 12 and 13.

3 Q. And that was through the evidence of
4 Mr. Nicholson and Mr. Iskra?

5 A. That's correct. And in that detailed
6 project description gives you details of (a) the
7 application rates, location, season of application and
8 a variety of other operational information that if one
9 wishes to know one could look up very easily.

10 The text would also refer to the amount
11 of aerial tending to be done and on Table 5.4 it would
12 also refer to the amount of aerial tending to be done.

13 Q. In relation to prescribed burns, is
14 there any formal opportunity during the annual work
15 schedule stage to have the decision to use a prescribed
16 burn changed?

17 A. At the AWS level there is no real
18 formal opportunity. As mentioned earlier, there is
19 opportunity to inspect the annual work schedule and the
20 annual work schedule would identify the prescribed
21 burn.

22 Q. And could you advise why there is no
23 formal opportunity to have that decision changed? And
24 perhaps before I ask you that question, what do you
25 mean when you say there is no formal opportunity to

1 have the decision changed?

2 Look at the word formal; what do you mean
3 by that?

4 A. Okay. An inspection implies that one
5 is able to come in and look at and see and understand
6 what activities are to take place; a formal opportunity
7 implies that one can come in and review and a chance
8 for bump-up or definite opportunity to change the
9 activities.

10 Q. So my question then is: Why is there
11 no formal opportunity to have a decision to use a PB
12 changed at the annual work schedule level?

13 A. Prescribed burn is part of a
14 silvicultural package and in most cases is -- and with
15 regard to site preparation is carried out in
16 conjunction with, say, a mechanical and/or a chemical
17 site preparation and is carried out in a format prior
18 to that prescribed burn, such that if the prescribed
19 burn is cancelled, most of the previous work carried
20 out is then no longer valid, and the fact that we may
21 not be able to regenerate the area as originally
22 planned.

23 It was also part of the silvicultural
24 package that was put together in the silvicultural
25 ground rules.

1 Q. Now, if there is no formal
2 opportunity to have the decision changed, what do you
3 do if somebody does come in to the office with a
4 concern about that prescribed burn during the annual
5 work schedule period?

6 A. First of all, we listen to their
7 concern and make sure that we understand their concern.
8 From my experience, most of the concerns that come in
9 at the annual work schedule level, the person can
10 usually be accommodated through operational changes to
11 the activity; i.e., season of cut or season of the
12 burn.

13 If the person is a tourist outfitter and
14 he has his camp booked up until, say, July 15th, then
15 okay, yes, we will schedule the burn after July 15th.
16 Those kind of operational changes can be adjusted or
17 easily accommodated at the AWS level.

18 Q. But if they can't, there is no formal
19 opportunity to have it changed for the reasons you've
20 indicated?

21 A. That's correct.

22 Q. Does the public have opportunities
23 for input, review or inspection of the decisions
24 regarding whether PBs will actually occur?

25 You say they don't have that opportunity

1 in a formal way during annual work schedule level, do
2 they have that opportunity at any other time?

3 A. They do have opportunity to review
4 prescribed burns during the development of the timber
5 management plan and specifically the development of the
6 silvicultural ground rules where the forester will
7 identify prescribed burns as one of the options that he
8 or she might select for a particular site.

9 Along with that they have the
10 opportunity, as with regard to the rest of the
11 activities of the timber management plan, for review at
12 the draft plan, the final plan and the opportunity for
13 bump-up. So those opportunities exist during the
14 review.

15 At the annual work schedule level you
16 have the opportunity to inspect, and we do listen to
17 comments that were received at that level and try to
18 adjust for any comments received with regard to
19 operational changes.

20 And specifically with prescribed burns,
21 within the prescribed burn plan, there is also a notice
22 that goes out and the prescribed burn plan itself is
23 available for inspection and, with the prescribed burn
24 plan there is a detailed communication plan. In that
25 communication plan it identifies who is to be

1 contacted, when the prescribed burn is scheduled to
2 take place, what format to be contacted, and how.

3 THE CHAIRMAN: How effective do you
4 consider the public's opportunity to object to, say, a
5 prescribed burn is at the earlier stages when it's only
6 one of the possibilities that's put forward?

7 In other words, as I understand your
8 evidence, certain alternatives are put forward in terms
9 of certain types of tending activities which can take
10 place, prescribed burns which may be one of them.

11 At that point in time, during the
12 development of the plan, if the public objects to a
13 prescribed burn, aren't they going to be met with the
14 answer that that is only one of several alternatives
15 that may be considered and it won't be determined
16 really until the annual work schedule stage, and then
17 when they get to the annual work schedule stage and
18 that is the alternative that is in fact chosen, their
19 only remedy is to raise a concern, but no formal
20 opportunity to change it; couple that with your
21 previous comment that at the annual work schedule it is
22 too late because it has all been put together as a
23 total package?

24 I guess what I am commenting on is that
25 is the real possibility of a prescribed burn, when it

1 is one of several alternatives, brought home to the
2 public at a stage when they actually can change the
3 decision as opposed to the stage when the decision is
4 made to do a prescribed burn, at which point they don't
5 have the option to change anything?

6 MR. GROVES: Okay. From my experience I
7 believe the best way to answer that question is that
8 when a person comes in to, say, an information centre
9 and say they are not -- they don't like prescribed
10 burns, the objective or the purpose of the person
11 that's talking to that individual, the MNR person or
12 the company individual, that's talking to that person,
13 they should sit down first and get an understanding of
14 why, and if it's a specific area, then identify that
15 specific area as (a) that option for that site cannot
16 take place.

17 So we can identify areas where we do not
18 want prescribed burns and for that particular site in
19 that area we'll say: Okay, that's an option that is
20 not available then. And I have seen that happen with
21 regard to aerial tending.

22 From my experience when I've dealt with
23 individuals that were concerned about prescribed burns,
24 once you dealt with their concern, it is more of a
25 safety concern and you identify: Okay, these are the

1 precautions that would take place in the prescribed
2 burn planning process, I manage to address their
3 concerns.

4 But you can identify areas where PBs are
5 not to take place, and I think that's what has to be
6 brought forward to the individual when they are
7 bringing up that particular concern.

8 THE CHAIRMAN: But aren't they more
9 concerned about where they will take place and they
10 don't know that at that stage because it is just put
11 forward to them as one of several options?

12 It's only when you have chosen that
13 specific option, which is at the annual work schedule
14 stage that it is, in effect, too late to object?

15 MR. GROVES: It's too late to -- yes, you
16 are correct, it's too late to object at the annual work
17 schedule.

18 THE CHAIRMAN: If they object it wouldn't
19 change -- make the change effective?

20 MR. GROVES: Yeah. I guess I'd call on
21 my experience from what I -- my experience, prescribed
22 burns, you are limited to the number you can do in any
23 particular year.

24 So, therefore, the option only shows up
25 in a limited number of times; therefore, if a person is

1 concerned, and usually individuals are only concerned
2 about their backyard. If, yes, you have a legit reason
3 why we can't do a prescribed burn in your backyard,
4 then let's flag it now, and that addresses the
5 individual's concern.

6 And that: Okay, yeah, he knows a
7 prescribed burn is not going to take place, it is going
8 to be option 2, 1 or whatever the other options were.

9 THE CHAIRMAN: Well, I guess the reason
10 that it concerns the Board a little bit - I don't know
11 the practical way around it - is, as is the case with
12 so many other environmental concerns, for example the
13 location of a landfill site, people really don't get
14 upset until they know that they are actually going to
15 be a targeted area.

16 In other words, prior to site selection
17 there isn't as much concern if your area hasn't been
18 selected. It is when your area, and in this case the
19 activity has been chosen, that often the concerns come
20 to the fore. And I guess the concern of the Board is
21 in this process that's too late.

22 Unless they raised a general opposition
23 to prescribed burns early on up front so that you can
24 identify that one shall not take place in a certain
25 area, it's often the observation of the Board that

1 peoples' concerns are focused once you have told them
2 there will be a prescribed burn here and that happens,
3 as I understand it, at the annual work schedule stage.

4 MR. GROVES: Yeah, you're correct, that's
5 when the individual finds out when the exact boundaries
6 of that prescribed burn is going to take place.

7 THE CHAIRMAN: And that may well be when
8 his concerns -- his or her concerns are focused to the
9 point that: Gee, maybe I better do something about
10 this, and yet it is too late at that point.

11 MR. GROVES: Just from my experience, any
12 individual who has come into the office at that point
13 in time and identified it, we've managed to relieve
14 their concerns, whether invite them to the prescribed
15 burn the day of so they understand the process...

16 THE CHAIRMAN: Okay. Well, you are
17 indicating I think that in practical fact it doesn't
18 arise as a concern--

19 MR. GROVES: Yeah, correct.

20 THE CHAIRMAN: --based on your
21 experience. Okay.

22 MR. FREIDIN: Q. Now, in terms of the
23 aerial application of herbicides, is there any formal
24 opportunity during the annual work schedule level to
25 have the decision to apply herbicides aeriually a

1 decision which can be changed?

2 MR. GROVES: A. Yes. Similar to the
3 prescribed burn process, there is no formal opportunity
4 at the annual work schedule level to change decisions.

5 Q. And are the reasons similar to the
6 reasons you gave for that situation in relation to
7 prescribed burns?

8 A. Yeah, they are pretty well identical
9 and the fact that it -- with regard to tending
10 operations, you will already have made a greater
11 investment into that particular land base and you've
12 invested both -- not only your site preparation, but
13 your tree planting and possibly other tending
14 operations before you do that last aerial tending
15 operation; therefore, you have a greater investment in
16 that piece of property.

17 Q. All right. And, in the same vein, is
18 there an opportunity during the timber management plan
19 preparation at the five-year level for an opportunity
20 for someone to identify where they do not want that
21 particular activity to occur?

22 A. Yes. At the timber management
23 planning level you have the opportunity at the
24 silvicultural ground rules to comment on that
25 particular prescription and you also have the

1 opportunity to identify where that operation will not
2 take place.

3 THE CHAIRMAN: Mr. Groves, is there any
4 indication given to the public at the earlier stage
5 that that is their only formal opportunity to object to
6 those activities?

7 MR. GROVES: There is no requirement for
8 notification. At information centres people are
9 usually made aware of what is involved in a
10 silvicultural ground rule.

11 THE CHAIRMAN: Well, they are given a
12 range of alternatives?

13 MR. GROVES: Correct.

14 THE CHAIRMAN: One or two of which may be
15 a prescribed burn and/or herbicide treatment. Would
16 you see anything wrong with the public being made aware
17 that if they object to any of the silvicultural
18 prescriptions which may take place on a unit, and which
19 will be determined as to which ones at the annual work
20 schedule stage, now is the time to object?

21 MR. GROVES: At information centres I
22 personally have made people aware of that opportunity.

23 THE CHAIRMAN: But that's not a formal
24 requirement of the planning process?

25 MR. GROVES: As it stands now, no.

1 THE CHAIRMAN: Thank you.

2 MR. FREIDIN: Q. And in relation to a
3 project where you are going to aerially apply
4 herbicides, is there a project plan which is required?

5 MR. GROVES: A. Yes. For aerial
6 application of herbicides, as was brought up in Panel
7 12 and 13, there is a detailed project plan and it must
8 follow that process that has been identified and that
9 detailed project plan identifies both the area and the
10 chemical and the operational considerations.

11 MR. FREIDIN: Can I have one moment, Mr.
12 Chairman.

13 Q. Mr. Groves, are there no situations
14 in which the silvicultural package could be changed in
15 an acceptable way at the annual work schedule level?

16 MR. GROVES: A. No, you're very limited
17 in the opportunity of changing the silvicultural
18 package at the AWS level because you have already, in
19 most instances, progressed partway through that package
20 of activities.

21 Q. Is it possible that there are
22 situations where, to be unable to carry out your
23 planned silvicultural activity, that you would be able
24 to do -- that there would be no other option?

25 A. That's correct. In some instances,

1 if you knew you were not going to be able to carry out
2 an aerial tending operation, your best option would be
3 to do no activities at all.

4 Q. And is that acceptable to you as a
5 forester?

6 A. No.

7 Q. Why not? Perhaps it's obvious,
8 but...

9 A. As a forester I am out there to
10 manage the forest and return the forest back to the
11 activity or the particular working group that was
12 desired or selected for it, and if I don't have all
13 those tools available, then I'm not going to be able to
14 maintain the forest in the manner and the objectives
15 that I set out in my timber management plan and,
16 therefore, I'm not achieving my objectives.

17 Q. Okay. I would like to move on just
18 briefly to the tables component of an annual work
19 schedule. You indicated that the annual work schedule
20 is partially composed of tables, and is there any need
21 to review those tables, in your view?

22 A. I believe Mr. Kennedy covered the
23 tables in the earlier presentation and that the annual
24 work schedule tables are the same format of those of
25 the timber management plan.

1 Q. And other than that particular fact
2 is that -- we will just pass on then to the next area.

3 A. Yes.

4 Q. Okay. In relation to the text
5 portion of an annual work schedule, are there any
6 points you want to make regarding that portion of an
7 annual work schedule?

8 A. Yes. I would like to emphasize that
9 the text of the annual work schedule is to be written
10 in a format that is easily readable and understandable
11 by everyone involved and to show that, I would like to
12 turn to page 545 of Exhibit 813B.

13 THE CHAIRMAN: Does that imply that text
14 written in conjunction with other elements of the
15 planning process is not understandable?

16 MR. GROVES: No.

17 MR. FREIDIN: Q. Which page were we to
18 look at?

19 MR. GROVES: A. 545.

20 Q. Okay.

21 A. Under Depletion, the first paragraph
22 points out what the purpose of the section is, the year
23 of operations, and where one can find the information;
24 i.e., it tells you to go to Tables 5.1 and 5.2. That's
25 where you will find a summary of the area.

1 Also in that first paragraph it
2 identifies that you can find the stand listings
3 attached in Appendix A and you can find the physical
4 location of the areas in Appendix B and in what form of
5 the maps.

6 So if one was reading it, even without
7 someone, they could say: Okay, yes, I want to know the
8 area, I have to look at Appendix B and it is in the
9 back of the annual work schedule. So it is meant to
10 lead you through the activities.

11 Q. In relation to roads, you indicated
12 how the location of road construction is shown on the
13 map. Is there information regarding roads over and
14 above the information contained on the maps?

15 A. Yes. As we mentioned earlier, that
16 the proposed roads were identified as a dotted line on
17 the annual work schedule that we are using as an
18 example. But if you turn to the Timber Management
19 Planning Manual, page 131--

20 Q. Okay.

21 A. --under the Access Plan section, it
22 identifies the requirements of the annual work schedule
23 that show with regard to roads. It is supposed to
24 identify the precise locations; i.e., those 100-metre
25 corridors for primary and secondary roads with specific

1 area of concerns, it is supposed to identify the
2 specific locations of the 500-metre corridors for the
3 primary and secondary concerns, and then the Timber
4 Management Planning Manual refers to roads in normal
5 capacity areas. Those are area of normal operating
6 areas or areas outside of area of concerns, and it is
7 to identify where tertiary roads will not be permitted.

8 Also a requirement for the access section
9 is a use management for each of the roads that should
10 address things like maintenance or non-maintenance,
11 abandonment.

12 Q. Now, Mr. Groves, you have in fact
13 been a district -- a forest management supervisor in
14 Red Lake District?

15 A. That's correct.

16 Q. And, in that capacity, you had
17 occasion to become involved in the annual work schedule
18 exercise in relation to the Red Lake Crown Management
19 Unit?

20 A. That's correct.

21 Q. And when you became involved, had
22 annual work schedules already been prepared by Mr.
23 Multamaki?

24 A. Yes.

25 Q. And in the annual work schedules that

1 you became involved in, what was your role; did you
2 actually prepare them or...

3 A. No, I actually supervised the staff
4 responsible for preparing them.

5 Q. All right. And can you advise
6 whether there was anything done in the annual work
7 schedules that you were supervising that was different
8 than the approach taken in the earlier annual work
9 schedules?

10 A. Yes, we did a couple of things
11 different. One was we identified the names, both the
12 name that was in the timber management plan and the
13 common name that had been associated with the road in
14 the district, as well as we identified the corridors,
15 both the 500-metre and, in areas of concern, the
16 100-metre corridors.

17 Q. And you are indicating then the
18 approach taken in the earlier annual work schedules did
19 not do that?

20 A. That's correct.

21 Q. Why did you adopt a different
22 approach?

23 A. As in the timber management planning
24 process, we are learning every year and making
25 refinements and making it better and we thought

1 identifying the corridors was -- like that which was
2 labeled out in the Timber Management Planning Manual
3 and including both the actual TMPM road number and the
4 real name made it a more readable format. For any one
5 of them coming off, anyone would understand which road
6 we were referring to.

7 Q. Okay. Are there any subject matters
8 other than access, harvest, renewal and tending dealt
9 with in an annual work schedule?

10 A. Yes. Like the timber management
11 plan, there are a section on physical improvements and
12 tree improvement section which, for reference sake
13 only, is in page 558 of the witness statement.

14 Q. Those were physical improvements and
15 tree improvements?

16 A. Yes, physical improvements and tree
17 improvements. An example of a physical improvement
18 would be the location of a new camp.

19 There is also a section to be -- it is
20 titled: Free to Grow Assessments in which we identify
21 how much free to grow assessment is to be scheduled for
22 that year.

23 MR. FREIDIN: References are found, Mr.
24 Chairman, in relation to tree improvement and physical
25 improvements at page 558 of the witness statement, free

1 to grow assessment at 560.

2 Q. Are there any additional comments you
3 would like to make about annual work schedules, Mr.
4 Groves?

5 MR. GROVES: A. Yes, there are. The
6 annual work schedule, even though it must be approved
7 before activities can commence, is not the last
8 document which one has to gain before one can commence
9 activities. The annual work schedule kicks off the
10 production and quite often other approvals as Lakes and
11 Rivers Improvement Act, work permits and cut approvals.

12 And I would like to take a moment to
13 illustrate how the harvest section of the annual work
14 schedule is used for the issuance of cut approvals.

15 The maps I would like to use are an
16 exhibit previously submitted, No. 867, and a new map
17 also coming from the annual work schedule, and it's a
18 1:15,840 map identifying the harvest areas for a
19 particular licensee.

20 THE CHAIRMAN: Exhibit 868. What do you
21 want to call it?

22 MR. GROVES: Harvest block from AWS.

23 ---EXHIBIT NO. 868: Map entitled: Harvest Block from
24 AWS.

25 MR. GROVES: Okay. In the text of the

1 annual work schedule - if you wish to check it at some
2 later point in time, it's not necessary to look now -
3 you will find Skookum Bay Logging will be identified
4 there and a particular area on Table 5.2 and on 5.3
5 volume that will be harvested.

6 And in the appendix Mr. Multamaki had,
7 the 1:15,840 map, which is the new Exhibit 868, what
8 you see is this block here coincides with this block in
9 the north corner again. (indicating)

10 This same map, the 1:15,840, would also
11 be found in an Order-in-Council licence and also be
12 used for the preparation of cut approval, either
13 another map was produced or a photocopy is produced and
14 put into a cut approval.

15 You notice that the 1:15,840 already as
16 all the AOCs and prescriptions already marked on it, so
17 that information is transferred from one map to another
18 map to the actual person in the field who is going to
19 carry out the activities to minimize any possible
20 problems.

21 THE CHAIRMAN: What is the
22 Order-in-Council made pursuant to, the Crown Timber
23 Act?

24 MR. GROVES: That's correct. I have a
25 few other comments I would like to make on the renewal

1 and maintenance section as well.

2 MR. FREIDIN: Before perhaps we go on to
3 that, Mr. Chairman, Appendix No. 10 of the EA, Exhibit
4 4, lists approvals which are required in addition to
5 having an annual work schedule approved before
6 operations can commence in certain situations.

7 Q. Okay. You want to go and you want to
8 make a few comments about renewal and maintenance?

9 MR. GROVES: A. Yes. I would like to
10 talk briefly on herbicide application. With regard to
11 herbicide application there is a requirement in the
12 policy that all areas which an aerial application of
13 herbicide is to take place for the purpose of tending
14 must be inspected. Those inspections may take a
15 variety of forms, but I would like to take the Board to
16 the witness statement, page 585, to follow through one
17 of the possible methods that one might document that
18 inspection.

19 THE CHAIRMAN: Mr. Freidin, do any of the
20 other approvals that are required after the annual work
21 schedule is approved require public input?

22 MR. GROVES: No, they don't.

23 THE CHAIRMAN: So they are strictly
24 administrative?

25 MR. GROVES: Yeah, most of them are

1 administrative, some of are -- their purpose is
2 strictly revenue collection.

3 THE CHAIRMAN: And I take it, I guess
4 with the MNR one, which is for the Ontario Pesticides
5 Act, that is regulatory?

6 MR. GROVES: That's correct, it's MOE.

7 MR. FREIDIN: No, that is the Ministry of
8 the Environment.

9 MR. GROVES: The Form 5 which is the
10 application for aerial application of herbicides is
11 approved by Ministry of the Environment.

12 MR. FREIDIN: And you recall the evidence
13 was that an application had to be made to in fact apply
14 herbicides aurally, an application was made to the
15 Ministry of the Environment for permit.

16 THE CHAIRMAN: Okay. And I can't
17 remember that legislation, but there is no public input
18 in terms of that legislation either; is there?

19 MR. GROVES: No, there is not, not that
20 I'm aware of.

21 MR. FREIDIN: If you mean by public input
22 in terms of the approval by the Ministry of the
23 Environment to issuing the permit?

24 THE CHAIRMAN: Yes.

25 MR. FREIDIN: My understanding is that

1 there is not.

2 THE CHAIRMAN: Right. Okay.

3 MR. FREIDIN: Q. Mr. Groves?

4 MR. GROVES: A. Okay. On page 585 or
5 586 you see a stocking sheet. It's just an actual
6 record for the field staff to go out and measure and
7 ensure that a suitable stocking is there to justify an
8 aerial application of herbicides. I don't think it's
9 worthwhile going through the form, just that there
10 is -- this would be found in a project plan file
11 cabinet somewhere in the office.

12 Q. And the areas identified by blocks
13 are in fact areas which I think are identified as
14 chemical release areas in the typing on the left-hand
15 corner of that page?

16 A. Yeah, that's correct. They refer to
17 the blocks on the map on page 585.

18 Q. Okay.

19 A. Where someone has sat down and
20 operationally laid out the block -- the potential
21 blocks for aerial application of herbicides.

22 As well as for aerial application of
23 herbicide, if the purpose is for site preparation,
24 professional judgment must be made to decide whether
25 that particular operation is a benefit and it's

1 strictly a professional judgment.

2 I would like to take the Board also back
3 to the witness statement to quickly go through the
4 procedure FRO 04 20 10 which was Exhibit 604A and just
5 highlight to identify that it is similar and there are
6 certain basic requirements.

7 THE CHAIRMAN: What does that exhibit
8 look like?

9 MR. GROVES: It's in the witness
10 statement as well, it has been reproduced.

11 MR. FREIDIN: Exhibit 604, Mr. Chairman,
12 was filed in Panel 12 and 13, is actually reproduced in
13 the witness statement that we have got now--

14 MR. GROVES: Page 571.

15 MR. FREIDIN: --page 571. Sorry.
16 Exhibit 813B, page 571, it's the procedure for the
17 aerial application of herbicides for forest management
18 in Ontario.

19 THE CHAIRMAN: Thank you.

20 MR. FREIDIN: Q. Mr. Groves, what is it
21 that you would like to do with this particular
22 document?

23 MR. GROVES: A. I just would like to
24 quickly go through it and identify the points that --
25 parts that laid out that we've -- i.e., like criteria

1 are in regulation and must be carried out and the
2 different parts of a project description.

3 Q. All right. Well then --

4 A. On page 572 you see the spraying
5 criteria which I referred to just moments earlier.
6 There is also a requirement as in any aerial
7 application for a project description, that would be
8 point five.

9 And then again, that project prescription
10 is similar to insecticides in that there has to be
11 objectives to be achieved, forest description, the
12 chemical to be used, the rate, aircraft, et cetera, et
13 cetera.

14 Another key point I would like to make is
15 5.8 identifies a timing of spray, so someone coming in
16 would like to know when it's going to happen. There is
17 a requirement there. There is also the requirements
18 for buffer zones.

19 One thing that is different about
20 herbicides from insecticides is responsibility for
21 approvals at the district manager level and as you go
22 farther on point 10, again, we apply to the Ministry of
23 the Environment for the application and under point 14
24 there is a detailed communications process laid out and
25 under the communication process there are

1 identification of when the notices are supposed to go
2 out, 30 days prior to and 7 days, and what is to appear
3 in those notices.

4 I don't think it's worth dwelling on it,
5 but you can identify that it is the same as what you
6 heard in 12 and 13 and that there is requirements under
7 the policy.

8 Q. And there's a requirement for project
9 plans dealt with in paragraph 15, again Mr. Iskra
10 described those I think in Panel 12 and 13?

11 A. Yes.

12 Q. Now, could I refer you to page 532 of
13 the witness statement, Mr. Groves. Page 532.

14 If I might, I would like to refer you or
15 direct your attention to the paragraph immediately
16 above the heading: Project Description Preparation,
17 starts with the words:

18 "If the purpose of the application is
19 site preparation..."

20 And I understand that you want to speak
21 to that particular paragraph to ensure that there is
22 not a misunderstanding of it?

23 MR. GROVES: A. Yes. Upon re-reading
24 that I'd leave the reader with the impression that
25 aerial or application of herbicides is always used

1 either in conjunction of and as an additional benefit
2 to.

3 In actuality aerial application of
4 herbicides can be used in itself as a singly effective
5 operation and certainly chemical site preparation can
6 be used in addition with mechanical or a prescribed
7 burn to assist or -- prescribe burn to assist the
8 chemical operation. So aerial application of herbicide
9 is not -- is a vital application as itself or in
10 conjunction with everything else.

11 I would like to go back to prescribed
12 burns here for a moment and just to refresh the Board's
13 memory on Mr. Elliott's evidence in earlier panels, and
14 he identified the prescribed burn process, that
15 emphasized the point that it starts well in advance, up
16 to 18 months in advance, application is prepared by the
17 client group which, in this case, is the forest
18 management branch and in that application they identify
19 the criteria to which they want the prescribed burn to
20 be carried out with.

21 That application is approved by the
22 district manager and then after it's reviewed by all
23 district supervisors, and then application is passed
24 on to the fire organization which the fire organization
25 is then responsible for preparation of the prescribed

1 burn plan.

2 So it's the fire organization that ends
3 up visiting the site in conjunction with forest
4 management, developing the plan, developing the costs,
5 communication plan and safety plan and all of the other
6 portions of that.

7 Q. And when those prescribed burn plans
8 are prepared, is there any practice regarding
9 consulting with people who might be impacted by the
10 prescribed burn?

11 A. Individuals that would be impacted by
12 the prescribed burn are sent specific notification with
13 regard to that activity going on once the plan is
14 prepared. The plan itself is prepared by a
15 multi-disciplinary review team within the district.

16 Q. Okay. Are there any comments you
17 would like to make in relation to access?

18 A. With regard to access that I
19 mentioned earlier that you do find corridors, but one
20 can often find additional information especially on
21 Crown management units where roads are to be contracted
22 out you might find detailed corridors laid out or
23 details with regard to volumes and widths of corridors
24 be laid out.

25 Q. Do protection operations always show

1 up in the annual work schedule?

2 A. Protection operations might not show
3 up in the earlier submissions of the annual work
4 schedule. They will always be included in the annual
5 work schedule once that planning process that Mr.
6 Churcher will discuss later have finalized.

7 So, therefore, if the information is
8 available prior to the starting of that schedule
9 period, then it's included in. If not, then a revision
10 is carried out to the annual work schedule to make sure
11 that information is added to it.

12 Q. And who actually prepares an annual
13 work schedule?

14 A. The unit forester or the company
15 forester responsible for that particular management
16 unit. For a Crown management unit it would be the unit
17 forester; for company and forest management agreement
18 forests it would be the company forester assigned to
19 that.

20 Q. And you have spoken about people
21 getting notice to come in and inspect the annual work
22 schedule. Is there any notice to the public when a
23 revision has been made to the annual work schedule?

24 A. There is no subsequent notices placed
25 in papers with regard to official notification that the

1 annual work schedule is available for the inspection
2 because the initial notice states that the
3 inspection -- the AWS is available for inspection for
4 the entire year and that revisions will be made to it.

5 . But if the party was not notified in the
6 first instance that an activity will be taking place
7 near their particular concern; i.e., if a new harvest
8 block was added and it's in an area where they weren't
9 notified previous to that, that individual would then
10 receive a written notification with regard to: Yes, an
11 activity is now planned within the vicinity of your
12 concern.

13 So if they didn't receive a notification
14 in the first one because activities weren't scheduled
15 for their area, then they would receive a notice once
16 that revision was added to the annual work schedule.

17 Q. They originally wouldn't have
18 received a specific direct mailing, they would have
19 only received the notice in the paper?

20 A. That's correct. They would have seen
21 the notice, but they wouldn't receive a direct written
22 notice.

23 Q. So if you revise your work schedule
24 and, say, in this particular year -- let's say you do,
25 you revise it in June and you decide you are going to

1 harvest an area which maybe you were planning to do the
2 year later, there would be additional notice to certain
3 people?

4 A. Additional notice to those
5 individuals in that new area of activity that you are
6 scheduling that are affected.

7 MR. FREIDIN: And, Mr. Chairman, that
8 particular evidence is contrary to the comment made at
9 page 177 of the Environmental Assessment Document,
10 commencing at line 22. Page 177, line 22, talks about
11 revisions to annual work schedules and it says:

12 "No further public notices will be issued
13 for amendments to the approved annual
14 work schedule."

15 And to the extent that that comment
16 differs with what Mr. Groves has just said, Mr. Groves'
17 evidence is the position of the Ministry.

18 Q. Mr. Groves, if we turn to --

19 MR. GROVES: A. Sorry. Maybe to clarify
20 a point with regard to that revisions, which I am not
21 certain came out clearly, in that the revision involves
22 new areas to an annual work schedule but not new areas
23 to a timber management plan.

24 I am not certain that point came across
25 clear if those revisions involve just another activity

1 which was approved in the timber management plan to be
2 newly scheduled for that particular schedule year. I
3 am not certain that came across clear.

4 MR. MARTEL: You are not talking about an
5 amendment then?

6 MR. GROVES: No. If you will notice in
7 the EA Document --

8 MR. FREIDIN: No --

9 MR. GROVES: We refer to amendments to
10 annual work schedule and in order to keep field staff
11 and individuals clear we are not referring to
12 amendments, we changed the name to revisions.

13 So there are administrative amendments,
14 minor amendments and major amendments to timber
15 management plans; and there are revisions to annual
16 work schedule. And they are simply addition of a new
17 activity -- an activity from the timber management plan
18 that is now being newly scheduled to the annual work
19 schedule.

20 MR. FREIDIN: Q. So that reference on
21 page 177 of the Environmental Assessment Document then
22 when it speaks about amendments to annual work
23 schedules, to properly reflect the evidence you have
24 given, should read amendments as revisions?

25 MR. GROVES: A. That's correct.

1 Q. Okay. I don't think we have to turn
2 to it, but there is a draft procedure for review and
3 approval of annual work schedules in the timber
4 management plans -- pardon me, draft procedure for
5 review and approval of annual work schedules reproduced
6 on pages 596 to 598. And can you advise: Does that
7 draft procedure change any of the current requirements
8 for review and approval of an annual work schedule?

9 A. No, the draft procedure just
10 basically provides clarification to ensure that the
11 activities are -- on the review and approval of the
12 annual work schedule is carried out as per the timber
13 management plan and the evidence presented.

14 Q. I understand that we have some terms
15 and conditions in relation to annual work schedules,
16 Mr. Groves?

17 A. Yes, we have a few terms and
18 conditions. I am not certain it's necessary to read
19 them out, but I would like to refer to them and give a
20 brief review of what is included in those.

21 Q. And that is Exhibit 700?

22 A. And it's terms and condition 32
23 onward.

24 Annual Work Schedules

25 32. MNR shall ensure that all timber management

1 activities, with the exception of protection
2 operations, are identified in an approved timber
3 management plan or in an approved amendment to a
4 timber management plan before they are scheduled
5 for implementation in an Annual Work Schedule.
6 Protection operations shall be planned in
7 accordance with an annual planning procedure, which
8 is described in Condition #38.

9 33. MNR shall ensure that a District review of an
10 Annual Work Schedule is undertaken prior to its
11 approval and that no timber management activities
12 commence until the Annual Work Schedule is
13 approved.

14 34. MNR shall ensure that all persons known to be
15 directly affected by the activities identified in
16 the Annual Work Schedule shall be given notice that
17 the Annual Work Schedule is available for
18 inspection. The general public shall be given
19 notice by publication of a notice in the local
20 media. In addition, public notification for aerial
21 pesticide projects shall include publication of
22 public notices at least 30 days, and again 7 days,
23 prior to the anticipated date of application. All
24 spray blocks on Crown land shall be posted at least
25 7 days before operations commence at all reasonable
points of access. Signs shall remain in place for
at least 30 days after the completion of the
project, and shall clearly advise the public of the
specific product or formulation used in the
operation.

On request, notices to Band Councils and native
communities and organizations will be provided in
the appropriate native languages.

35. MNR shall ensure that, where revisions are made to
Annual Work Schedules, such revisions are
restricted to activities that are contained within
an approved timber management plan or an approved
amendment to a timber management plan.

Prescribed Burns and Pesticide Projects

36. MNR shall ensure that projects in an Annual Work
Schedule which involve prescribed burning or the
aerial application of herbicides shall be planned,
reviewed and approved in accordance with the

1 respective procedures set out in the Prescribed
2 Burn Planning Manual, as amended from time to time,
3 and the procedure for the Aerial Application of
4 Herbicides for Forest Management in Ontario, as
5 amended from time to time. Particulars of this
6 condition are described in Conditions #37 and 39.

7 37. Each prescribed burn which is undertaken for
8 timber management purposes shall be planned,
9 reviewed and approved in accordance with the
10 procedures set out in the Prescribed Burn Planning
11 Manual, as amended from time to time. Particulars
12 of this condition are:

13 (a) An operational plan will be prepared and will
14 include:

15 (i) a communications plan to ensure that the
16 general public and all persons known to
17 be directly affected by the prescribed
18 burn are informed;

19 (ii) clear statements of the objectives to be
20 achieved;

21 (iii) a prescription described in forest fire
22 danger rating terms of the weather and
23 fuel conditions which will result in the
24 necessary fuel reduction in order to
25 achieve the objectives;

 (iv) an analysis of the potential positive and
 negative effects of the prescribed burn
 on timber and non-timber values; and

 (v) a description of the ignition,
 suppression, safety and support
 activities which will be required.

 (b) The operational plan will be the subject of an
 MNR internal review by the District and
 Region. Each prescribed burn will be approved
 by the District Manager and the Regional
 Director.

 (c) A post-burn report will be prepared and will
 include:

 (i) an assessment of the success of the burn

- 1 in achieving the objectives; and
- 2 (ii) documentation of the positive and
- 3 negative effects of the burn.
39. Each aerial application of a herbicide or
- 4 insecticide which is undertaken for timber
- 5 management purposes shall be the subject of a
- 6 project description and operational plan.
- 7 Particulars of this condition are:
- 8 (a) Project descriptions will be prepared and will
- 9 include:
- 10 (i) the description of the methods which will
- 11 be used to notify the public;
- 12 (ii) a statement of the objectives to be
- 13 achieved;
- 14 (iii) a forest description;
- 15 (iv) the technical name and formulation of the
- 16 pesticide;
- 17 (v) the type of aircraft to be used (i.e.
- 18 rotary or fixed wing);
- 19 (vi) the name of the project supervisor;
- 20 (vii) the locations of the treatment areas,
- 21 identified on maps;
- 22 (viii) the proposed timing of the activity;
- 23 (ix) a description of the buffer zones and
- 24 their display on maps.
- 25 (b) Operational plans will prepared and will
- include:
- (i) a communications plan;
- (ii) an operations plan;
- (iii) a safety plan, and
- (iv) a security plan.

1 MR. FREIDIN: Q. Starting in paragraph
2 32 -- or draft term and condition 32 under the heading:
3 Annual Work Schedules. All right. You want to just
4 review those then, Mr. Groves, the ones that are
5 applicable?

6 MR. GROVES: A. Yes. No. 32 basically
7 states that all activities carried out in an annual
8 work schedule must be from approved timber management
9 plan or subsequent amendments to the timber management
10 plan.

11 No. 33 identifies that there must be a
12 review of the annual work schedule prior to its
13 approval.

14 No. 34 identifies that there must be
15 public notice with regard to inspection of the annual
16 work schedule and that there must be public notice with
17 regard to aerial application of herbicides and that on
18 request there will be notices to Band Councils and
19 native communities in their appropriate languages.

20 Q. And in term and condition 34, right
21 at the beginning there is a distinction made between
22 persons who are known to be directly affected and the
23 general public, in that the former get a specific
24 notice?

25 A. That's correct, although those

1 directly affected by the annual work schedule will
2 receive specific notice and will receive specific
3 notice with regard to revisions.

4 THE CHAIRMAN: Is condition 35 basically
5 going to be changed by what you have just told the
6 Board?

7 MR. GROVES: Yes.

8 THE CHAIRMAN: In that people will get a
9 specific notice if it's an additional area or activity
10 that has already been approved by the timber management
11 plan but is now going to occur in their area?

12 MR. GROVES: Yeah. If they did not
13 receive an official notice because they weren't
14 identified as an affected party with regard to the
15 first group of activities, the new activity has
16 additional affected parties, then those new additional
17 affected parties will receive written notice.

18 THE CHAIRMAN: Why wouldn't it be better
19 to give the people affected by the revision a second
20 notice if they even if they received the first notice
21 simply because it is now going to affect them?

22 Maybe I am misunderstanding what you
23 said, but did you not say that people who receive
24 specific notice first time round the annual work
25 schedule is available for inspection may not get an

1 additional notice if there's a revision that now
2 affects them?

3 MR. GROVES: The only people that get the
4 second notice would be those additional parties that
5 didn't receive the first notice.

6 MR. FREIDIN: Q. Let me give you a
7 hypothetical, I think I can address this.

8 Let's say you have got a tourist
9 operator, he has got two camps, one area is in location
10 "x" and there's planned harvest in the vicinity of that
11 tourist operator in the annual work schedule, would
12 that person get -- be a person who would be a person
13 known to be directly affected and receive this special
14 notice in addition to the news media?

15 MR. GROVES: A. Yes, he would. And if
16 in this --

17 Q. I think you know where I am going.

18 A. Yeah.

19 Q. If you get a revision to that annual
20 work schedule which now you are going to plan to
21 harvest in another area which wasn't in the original
22 work schedule and the same person is identified, he's
23 got his tourist operation there and you are going to
24 harvest in the vicinity, would that person get the
25 direct notice about that revision, I think is the

1 question?

2 A. The intention is, yes, he would get a
3 second notice saying there is a new activity in his
4 area of concern even if it was not -- if it was a
5 different camp, for instance, that is now being
6 affected compared to the first one.

7 THE CHAIRMAN: Okay. Wouldn't it just be
8 simpler if everyone got a notice that would be directly
9 affected by the revision, period?

10 MR. FREIDIN: I think he's saying --

11 MR. GROVES: I think that is what we are
12 intending, everyone with regard to the new area that is
13 now affected will receive a notice.

14 THE CHAIRMAN: Whether or not they
15 received the first notice?

16 MR. GROVES: Correct.

17 THE CHAIRMAN: Okay.

18 MR. GROVES: So it will be additional
19 parties plus might be -- a second party might receive a
20 second notice if it's a different area.

21 MR. FREIDIN: Q. There could be people
22 who got direct notice in the first situation who
23 wouldn't be affected in any way by the revision, the
24 activity in the revision?

25 MR. GROVES: A. That's correct and they

1 wouldn't receive the second notice.

2 Q. All right. I think we got to 35, and
3 that was the one that gave rise to the Chairman's
4 question.

5 A. Yes, that is with regard to
6 revisions. No. 36 identifies that we will be using the
7 Prescribed Burn Planning Manual and the Aerial
8 Application of Herbicides for Forest Management in
9 Ontario, those manuals will be followed.

10 37 just identifies requirements of the PB
11 manual, the sections that must be followed.

12 And I would like to skip to No. 39 where
13 it deals with aerial application of herbicides or
14 insecticides and that identifies that a detailed
15 project description and operational plan will be
16 completed and the conditions of those project
17 descriptions and operational plans.

18 So that's the same project plans that you
19 have heard Mr. Iskra talk about in 12 and 13 and I have
20 talked about in earlier...

21 Q. One last question for you, Mr.
22 Groves. There was some discussion some days ago about
23 the role of the designated Crown representative,
24 referred to as the DCR, and whether that person played
25 any role in operations or what role that person played

1 in operations on FMA units.

2 And could you advise what role, if any,
3 that particular individual plays in operations during
4 the preparation or implementation of annual work
5 schedules?

6 A. Okay. The district -- designated
7 Crown representative or the DCR is the individual that
8 usually receives the annual work schedule from the
9 company or the forest management agreement area and is
10 one responsible for usually the first review before the
11 multi-disciplinary review sits down to identify and
12 ensure that all activities identified in the AWS are
13 contained in our approved activities in the timber
14 management plan.

15 That person would also be involved in the
16 multi-disciplinary review and approval of that plan for
17 the annual work schedule and submission, if any
18 required alterations are required to the AWS, back to
19 the company.

20 Once the annual work schedule is approved
21 that individual is responsible for making sure all the
22 other administrative documents that we talked about
23 earlier, the cut approvals, Lakes and Rivers
24 Improvement Act applications are then processed and
25 carried out. He's also responsible for the staff to

1 carry out the auditing of all the activities either he
2 himself -- he or she, and his staff then monitor the
3 activities as they go on to make sure that they are
4 carried out as they are scheduled and as they were
5 approved in the timber management plan. .

6 MR. FREIDIN: Those are my questions for
7 Mr. Groves. I would like to move to Document No. 6
8 which is entitled: Protection Planning, A Provincial
9 Procedure. It's authored by Mr. Churcher, it starts at
10 page 603 of the witness statement. Perhaps we could
11 just take a moment, Mr. Chairman, to have Mr. -- well.

12 MR. CHURCHER: That's fine, I can --

13 MR. FREIDIN: The reason -- I was going
14 to have them move to another location but we will just
15 leave them where they are.

16 MR. CHURCHER: We will probably move at
17 the lunch break, but between now and then I think we
18 can do it from here.

19 MR. FREIDIN: Mr. Churcher has a number
20 of overheads that he's going to be using and perhaps we
21 can mark as the next exhibit a document entitled:
22 Overheads, Document 6, Protection Planning, and we
23 could number those A to G.

24 THE CHAIRMAN: Exhibit 869, A through G.

25

1 ---EXHIBIT NO. 869: Hard copy of overheads re:
2 Document 6, Protection Planning
(Pages A to G).

3 MR. FREIDIN: Q. Now, before we begin,
4 Mr. Churcher, to actually get into your evidence
5 itself, I understand that there are a couple of
6 administrative matters that you would like to deal
7 with?

8 MR. CHURCHER: A. Yes. My evidence will
9 be essentially explaining Appendix 3 of the Class EA
10 Document, Exhibit No. 4, and so perhaps if we get that
11 out, there are three or four minor changes to that
12 which I thought I would make at the beginning and then
13 I will explain why those changes are necessary as we go
14 through my oral evidence.

15 The first one is on page 2 of Appendix 3,
16 line No. 10, and I would suggest that we strike the
17 word 'aerial' so that line No. 10 will now read:

18 "Planning procedure for protection
19 operations including..."

20 Later on on page No. 5, initially on line
21 11, I would suggest that that is where the word
22 'aerial' should be inserted. So that line would read:

23 "If the recommended course of action
24 involves the aerial use of..."

25 And then later on that same page, on line

1 30, again insert the word 'aerial' so that the line
2 will read:

3 "Recommended course of action involves
4 the aerial use of insecticide/..."

5 The next page is page 6, I guess, figure
6 III.1. This figure -- the amended figure has already
7 been introduced as Exhibit 820 I believe, but I
8 included it here just so we didn't have to look for
9 that previous exhibit. There are two changes which
10 have already been noted and are highlighted in yellow
11 on the overhead.

12 The first is on the upper half, the 30
13 days required -- public notice required before the
14 information centre. The initial version said 15 days
15 public notice, it's now 30. And the second revision
16 was in the bottom left-hand corner, and that should
17 read:

18 "Public inspection of approved
19 program..."

20 Now, the reason we made that change,
21 instead of saying public review, it should read public
22 inspection, was so that there would be consistent use
23 of the words review and inspection throughout the text
24 of Appendix 3, as well as throughout the text of my
25 document and also in this figure.

1 Q. And the difference between the review
2 and inspection being what?

3 A. The public review is the formal
4 opportunity for the public to come in, make their
5 comments on the proposals prior to a decision actually
6 being made, so that their comments can be incorporated
7 into that decision.

8 The public inspection, on the other hand,
9 occurs after the decision has been made. Their
10 comments -- or it provides an opportunity for the
11 public to look at the project proposal -- or the
12 project description to refresh in their memory exactly
13 what is going to be done, to determine exactly what
14 decision was made.

15 Certainly it is not the intent that the
16 public cannot make comment at that time and comments
17 can still be taken into account; however, the formal
18 opportunity for the comments to be taken into account
19 is at the public review, so that they can be
20 incorporated, if it at all possible, into the decision.

21 And one last change is on page No. 7 of
22 Appendix 3, line No. 33, and the text should read:

23 "Manager will issue a public notice
24 normally thirty (30) days in advance."

25 And, again, that's just to make it

1 consistent.

2 THE CHAIRMAN: The last change I had when
3 you noted it said at least 30 days in advance instead
4 of normally.

5 MR. CHURCHER: I believe you're correct.
6 Yes, that's right.

7 MR. FREIDIN: Q. So if we can commence,
8 Mr. Churcher, perhaps you could advise the Board what
9 the relation is between the evidence you are going to
10 give today, that's the evidence that you and Mr.
11 Davison are going to give today, and the evidence that
12 was given in Panels 12 and 13 regarding protection?

13 MR. CHURCHER: A. In Panels 12 and 13 my
14 evidence was specifically about insects and the use of
15 insecticides and when they are used and how they are
16 used. Also Mr. Nicholson and Mr. Iskra talked about
17 the operational aspects of using those insecticides.

18 What Mr. Davison and I will do today is
19 talk about the planning of those operations; in other
20 words, lay the ground work that leads up to conducting
21 the actual operation or up to the point where Mr. Iskra
22 and Mr. Nicholson gave their evidence.

23 I guess in one sentence it's a little
24 back to front; you've already heard about the
25 operations, now you're hearing about the planning that

1 leads up to it.

2 The next overhead, or Exhibit 869B,
3 provides an outline of how I have arranged my evidence.
4 It is essentially an outline of Appendix No. 3 which is
5 broken into nine sections following more or less these
6 titles. For consistency that's how I've outlined or
7 how I've organized Document No. 6 and how Mr. Davison
8 has organized Document No. 7 so that there is
9 correlation between all three papers.

10 Q. How is the subject matters that are
11 going to be addressed by you and Mr. Davison been
12 divided?

13 A. I will be talking specifically about
14 Appendix 3, looking at it from a provincial
15 perspective, giving the general background or the
16 general steps of the planning procedure.

17 Mr. Davison will be giving an example of
18 how that was applied in 1987 to the northcentral region
19 and, when specifics are required, the Terrace Bay
20 District within the northcentral region.

21 Q. Okay. Could we then move on to I
22 think Section 2 of your paper, it is entitled:
23 District and Regional Committees.

24 A. Yes, and if you could put up the next
25 overhead. I would like you to work up an appetite

1 before lunch, Mr. Freidin.

2 The procedure begins with essentially the
3 identification of some problem existing in the forest
4 and the problem usually is manifested by damage to the
5 trees that has been caused by an insect or an insect
6 population.

7 Q. And we are now looking at the
8 overhead Exhibit 869C?

9 A. That's correct.

10 Q. Okay.

11 A. And once the problem has been
12 identified and it has been deemed that there should be
13 further investigation into this problem, a working
14 committee or a series of working committees will be set
15 up.

16 Depending on the extent of the
17 infestation or the problem it could be just limited to
18 a district, in which case there would be a district
19 working committee set up and their role and the
20 membership of that is noted on this overhead, or
21 Exhibit 869C.

22 If more than one district is involved,
23 then there would be a number of district committees set
24 up and there would also be a regional committee set up
25 to coordinate the efforts of the various district

1 committees and, again, the role and membership of the
2 regional coordinating committee is noted on page 869C.

3 And when we have had in the past few
4 years very large programs where we are talking about a
5 number of regions, then similarly a provincial
6 committee would be set up to oversee the consistent
7 application of the planning process and the application
8 of the insecticide program across the province. And,
9 once again, their role and membership is noted on 869C.

10 Now, it is in this section on page 2 that
11 we made the first correction, and I suggested that we
12 delete the word 'aerial', and the reason for that is at
13 this point in time there has been no decision made as
14 to the fact that there would be an aerial application
15 of insecticides, simply that there is a problem, there
16 was an insect population that causing damage and it
17 has been determined that that requires further
18 investigation.

19 As to how exactly -- what actions will be
20 taken, if any action at all, that is something that
21 occurs after the establishment of the committee and, in
22 fact, that's the role of the committee.

23 Q. Before we leave Exhibit 869C, when
24 you refer in the district working committee box, second
25 bullet, to supervisors are those -- who is included in

1 supervisors?

2 A. That would be the various program
3 supervisors, that would be the forest management
4 supervisor and the district biologist and the lands
5 supervisor; the same supervisors that would be
6 approving -- or reviewing and approving the project
7 description or the timber management plan that has been
8 discussed earlier.

9 Q. Okay. You then deal with the third
10 part of your paper starting on page 643, Selection of
11 Areas for Protection Operations. When are areas
12 identified for protection, Mr. Churcher?

13 A. Well, if I could refer again to
14 Appendix 3 on page 3, lines 24 and 25 -- oh, excuse me,
15 lines 15 and 18. These areas are identified when the
16 problem is first noted or there is a problem that an
17 insect epidemic is threatening an area and that it is
18 expected that the epidemic will move into an area. And
19 these lines that I have noted, lines 15 to 18, I
20 believe require a bit of explanation.

21 The sentence may be misleading the way it
22 is written, and the way it should be read is, that if
23 there is an insect epidemic occurring at the time that
24 the timber management plan is being rewritten or there
25 is one threatening, then the areas which may receive

1 protection through the use of insecticides would be
2 identified at that point in time at the beginning of
3 the TMP.

4 However, if at the time the timber
5 management plan is being prepared there is no
6 indication that there is going to be any protection
7 operations, then there would obviously be no
8 requirement to identify those areas. However, say in
9 year three or year four of the timber management plan
10 that an insect epidemic arises, then at that point in
11 time the eligible areas would be identified.

12 So that sentence might be easier to
13 understand if the 'if required' appeared earlier on in
14 the sentence as opposed to the end. And, again, the
15 same holds true on page 1, lines 24 and 25, there is a
16 similar wording of the sentence.

17 Q. Now, in Panels 12 and 13 you
18 indicated that one to two per cent of the total area
19 infested will receive an application of insecticides.
20 Does all the area identified as eligible get sprayed?

21 A. No, it does not. And if I could have
22 the next overhead, Mr. Freidin, and this would be
23 Exhibit 869D.

24 There are essentially three points that
25 have to be satisfied before an area can be sprayed. An

1 area could be eligible to be sprayed, however, to
2 become eligible it has to be: (a) susceptible to the
3 insect obviously; and, secondly, the area has to be
4 threatened by the insect obviously; and, thirdly, and
5 possibly most importantly - and this is the limiting
6 factor - is that the area must hold some form of value,
7 either a commercially operable forest or some other
8 high value and those have been defined -- are defined
9 in procedure FR 04 10 10 which I discussed in Panel 13.

10 Q. Is this process of identifying areas
11 eligible for protection an iterative one?

12 A. Yes, definitely. The way I've laid
13 out the planning process here and the way I'm
14 explaining it is very linear, however, Mr. Davison will
15 be providing some examples of how it does become
16 iterative.

17 Q. Moving on to the fourth part of your
18 paper, Consideration and Analysis of Options, you have
19 a number of overheads in relation to this as well, Mr.
20 Churcher?

21 A. Yes, I do. Again, Mr. Davison will
22 be dealing with this section in more detail, but just
23 as a general overview and as a reminder of what I
24 discussed in Panel 13, there are essentially three
25 options open to the regional working committee to

1 consider, and the first is to have no treatment
2 whatsoever and to allow the insect epidemic to run its
3 natural course.

4 The second option is to move into the
5 area and attempt to harvest those trees that are
6 attacked prior to damage by the insect population, and
7 that could take the form of either a salvage harvest,
8 if in fact the infestation has gone on for a while and
9 those trees are dead or dying, or a reallocation of an
10 area, or simply accelerating the amount of harvesting
11 that was going to be done in that area.

12 And the third option, of course, is to
13 use insecticides either from the air or from the ground
14 to limit the amount of damage that the insects are
15 causing.

16 And also in Panel 13 I noted nine factors
17 which are often considered or thought of in determining
18 exactly which of those three options to choose, and
19 those nine factors are noted on page 869F -- or Exhibit
20 869F. They are identified more fully in my evidence in
21 Panel 13 and I don't feel there is a need to repeat
22 that here.

23 Q. Could you turn to Appendix No. 3,
24 page 5, in particular lines 24 to 27.

25 A. Yes.

1 Q. Lines 24 to 27 read:

2 "The planning procedure for amendments to
3 timber management plans applies if the
4 recommended course of action involves
5 accelerated harvest operations,
6 redirected harvest operations or salvage
7 operations."

8 And my question is: Is that statement
9 correct in all situations?

10 A. No, not necessarily. An amendment
11 may be required but, on the other hand, an amendment
12 may not be required. If the area has already been
13 allocated within the current term of the TMP, then an
14 amendment would not be required, it would be
15 essentially a revision to the AWS as Mr. Groves has
16 just described.

17 Q. Now, I understand that once we get to
18 this particular stage of the process, what do we have
19 and what happens next?

20 A. Well, at this point in time the
21 committee has reviewed the three options and has
22 analysed those options and essentially has made a
23 decision that in some areas they will do nothing, in
24 some areas that may have some form of accelerated
25 harvest or some form of harvest - and that may or may

1 not require an amendment or a revision - and they have
2 decided that in some areas they would require the use
3 of insecticides.

4 And the remainder of Appendix 3 and the
5 remainder of my discussion this morning will deal with
6 the eventuality that they have decided that at some
7 point -- or that somewhere there is a requirement for
8 the aerial application of insecticides.

9 So the remainder of my talk will be
10 strictly the aerial application of insecticides. That
11 is why on page 5 I felt that it was at that point that
12 it was appropriate to insert the word 'aerial'.

13 Q. So having made a decision, does the
14 district committee make a recommendation? What happens
15 to this decision that they have made?

16 A. Yes. The proposal at that point
17 would be taken to the district manager or the
18 regional -- and the regional director for his approval
19 or her approval and it also goes to the executive
20 management committee level or the Deputy Minister level
21 for their approval to proceed with the next step in the
22 planning process which is the public information
23 centre.

24 Q. All right.

25 A. At this point, however, it is

1 strictly a proposal and no decision has been made.

2 Q. So if they get the approval to go
3 ahead with the protection planning, then the next step
4 is a public information centre?

5 A. That is correct.

6 Q. And should I put up the overhead
7 869G?

8 A. Yes, please. And you will be pleased
9 to know that that's the final overhead, Mr. Freidin.

10 And essentially what this overhead is is,
11 I guess, my version of Figure 3-1 somewhat simplified.
12 And the way I have organized it is using the titles of
13 my document, the titles that are in Appendix 3, and the
14 numbers that you see to the left are the numbers of
15 each section, so that there is some correlation between
16 this figure, Figure 3-1 and Document 6.

17 And at this point in time we are at No.
18 5, Information Centre and Public Review. The public
19 notice would be issued 30 days prior to that
20 information centre occurring. The public information
21 centre is held and for a 30-day period after that the
22 public is -- the public comment is received.

23 Q. If I might just direct you to page 8
24 of Appendix 3 and, in particular, lines 21 to 23.
25 Those lines presently read:

1 "The public notice will include a map of
2 the district which identifies areas in
3 which MNR proposes to use insecticides/
4 fungicides for insect or disease/pest
5 control purposes."

6 And I understand that you have some
7 concern about that particular passage and would like to
8 suggest or indicate that the Ministry's position on
9 that matter has changed?

10 A. Yes. As Mr. Nicholson and Mr. Iskra
11 pointed out, the size of the spray blocks in Ontario
12 were extremely small and so to produce a map of the
13 district in a large enough scale that these spray
14 blocks or proposed spray blocks would be identified in
15 a newspaper advertisement would essentially take a
16 full-page ad in a newspaper. That is prohibitively
17 expensive and probably not necessary or appropriate.

18 So my suggestion would be that that
19 requirement be deleted and that the normal public
20 notice that has been used in the past - and I believe
21 there were examples Mr. Iskra provided in his evidence
22 and I believe Mr. Davison has examples in his evidence
23 as well - that form of public notice just announcing
24 the location and the time of the information centre
25 would be sufficient, and at that public information

1 centre there would be the maps of the appropriate size
2 and scale to note exactly where the the spray blocks
3 would be.

4 THE CHAIRMAN: But how does the public
5 sort of get a preliminary indication whether they would
6 be interested in attending if they don't know whether
7 they would be close to a spray block?

8 MR. CHURCHER: The people that would be
9 intimately affected that would be on the district
10 mailing list or who have already expressed some
11 previous interest in aerial spray programs in a
12 district, for instance, would receive a written letter
13 of invitation.

14 THE CHAIRMAN: But would they receive a
15 map with it indicating where the spray blocks were?

16 I understand your concern over the cost
17 of publishing a map in a newspaper, but does that
18 extend to providing a map or reproduction of a map
19 showing the spray blocks in the written notice sent out
20 to those who would be affected near those spray blocks?

21 MR. CHURCHER: Perhaps I will pass that
22 question to Mr. Davison and to what he did in his
23 experience in his programs, or anyone else on the panel
24 that was involved.

25 MR. DAVISON: To answer your question,

1 Mr. Chairman, no, it wasn't done that way. We sent a
2 notice to the people that were directly affected but,
3 no, we didn't include a map.

4 THE CHAIRMAN: But would that be a
5 problem?

6 MR. DAVISON: As far as I personally feel
7 it would probably just be another piece of paper
8 included in the letter.

9 MR. FREIDIN: Q. In terms of the
10 information centre, Mr. Churcher, are there mandatory
11 requirements regarding what gets produced and is
12 available for review and inspection by the public?

13 MR. CHURCHER: A. Yes, there are, and I
14 believe they are outlined on page 9 of Appendix 3, the
15 minimum requirements of what would be available at an
16 information centre.

17 Q. And very briefly they are what?

18 A. To read directly from Appendix 3,
19 firstly:

20 "...maps which identify areas of the
21 district in which MNR proposes to use
22 insecticides/fungicides for

23 insect/disease pest control purposes;

24 The analysis of optional treatments..."

25 In other words, the thinking process that

1 in discussions have gone in their working committee
2 level:

3 "And the draft proposal for specific pest
4 control projects."

5 Q. Now, on page No. 9 it refers to, as
6 you have indicated, optional treatments. Does this
7 include non-spray options; in other words, does the
8 analysis of optional treatments referred to require
9 there to be a discussion of non-spray options?

10 A. Yes, quite likely at the open house
11 there would not just be a presentation of the spray
12 areas that would be treated, but there would also be a
13 discussion and presentation of maps showing the areas
14 where it was decided to have some form of harvest as a
15 form of insect control or insect management.

16 And, in some cases, it may be
17 appropriate, even when there is no insecticide or
18 aerial insecticide program proposed, the district may
19 wish to have an open house anyway just to let the
20 public know that it was considered, it was thought
21 about, the committee decided for whatever reasons that
22 the problem could be best addressed through a scheduled
23 or unscheduled harvest in the area, and that is what
24 was going to be taking place.

25 Q. Your paper at page 652 deals with the

1 question of finalization and review of the district
2 program, and when you refer to district program what
3 are you referring to?

4 A. The insecticide spray program.

5 Q. Could you just outline that .
6 particular process?

7 A. Well, after the public information
8 centre, as I indicated, there is a 30-day period where
9 the public has an opportunity to submit their comments,
10 whenever possible those comments are incorporated into
11 the project proposal. The proposal is then circulated
12 throughout the district for the comments and approval
13 of the various supervisors. It is then sent to the
14 regional director for his approval and then returns to
15 the district for the district manager who gives the
16 final signature on the project proposal.

17 And it is then taken to, once again, the
18 executive management committee, the Deputy Minister and
19 the Assistant Deputy Ministers for their approval and,
20 at that point, the project receives its final approval.

21 Q. Mr. Iskra and Mr. Nicholson described
22 a number of project plans which were incorporated as
23 part of the project description. They referred to
24 safety plans, security plans, operations plans,
25 communications plans, those sort of things. Are those

1 reviewed as well; are those involved in this process?

2 A. No, the approval mainly is just of
3 the project description, as Mr. Groves has just
4 recently identify: who, what, why, when, where, that
5 type of stuff. The four operational plans which Mr.
6 Iskra talked about are appended to the back of that
7 project description to make a complete document.

8 Q. Thank you. And once approved is the
9 public notified of the approved plan?

10 A. Yes. Again, they would be notified
11 prior to the beginning of the spray program that the
12 proposal has been approved and a finalized project
13 description is available for the public inspection, and
14 that would be the public inspection period that I spoke
15 of earlier, and I will speak about that a little bit
16 later.

17 Q. The next area, notification to
18 Ministry of the Environment, and that is commencing on
19 page 652. Can you just summarize that particular
20 notification requirement?

21 A. Yes, that takes two forms; firstly,
22 approximately 60 days before the anticipated beginning
23 of the spray program the Form 5 or the application for
24 the permit to conduct the spray program is submitted to
25 the regional office of the Ministry of the Environment

1 and, along with that form, it is accompanied by a copy
2 of the project description as well as a summary of all
3 the public comment that was received, as well as the
4 full analysis of options that the committee undertook
5 in arriving at their decision.

6 There is notification of the EA Branch of
7 MOE as well and that takes the form of a copy of the
8 covering letter that went to the regional office as
9 well as a copy of the Form 5.

10 Q. Could we then move on to Part 8,
11 public notice prior to operations. I believe that has
12 been dealt with in Panels 12 and 13, but perhaps you
13 could just highlight the provisions for public notice
14 prior to the aerial application of insecticides
15 actually occurring?

16 A. There is two parts to this section
17 and initially I will deal with how Mr. Davison
18 conducted it and how the public notice at this point
19 was done as discussed by Mr. Iskra in his example.

20 And at that point there was a 30-day
21 notice prior to the anticipated start of spraying,
22 followed by a 7-day notice prior to the anticipated
23 start of spraying.

24 In Appendix 3, and this will take effect
25 upon the acceptance of the EA or the completion of the

1 hearings, when bump-up becomes a possibility and what
2 is proposed and what is noted on the overhead Exhibit
3 869G is that there would be public notice 60 days prior
4 to the commencement of the spraying, and part of that
5 public notice would be an indication that the public
6 has a final 30 days following that notice to submit
7 their request for bump-up and, at the end of that 30
8 days, if no bump-up requests have been received, then
9 MOE at that point in time would issue the permit to
10 conduct the spray program.

11 Roughly 23 days after that then would be
12 the time that the Ministry would issue their 7-day
13 notice and obviously 7 days after that the program
14 would begin.

15 THE CHAIRMAN: Once again, prior to the
16 public knowing exactly where the spray locations were,
17 according to Section 8.0, would they be required to
18 come into the office as opposed to being notified of
19 this in the public notice?

20 MR. CHURCHER: That's correct, for the
21 same reasons we have discussed. It would be a public
22 notice saying that the project descriptions have been
23 finalized and are available for public inspection.
24 There may be additional mailings to interested parties
25 notifying them of that as well.

1 THE CHAIRMAN: Do you find that this
2 places an unreasonable obligation on the public to have
3 to actually attend, come into a specific MNR office in
4 order to find out where the spraying will actually
5 occur, as opposed to being afforded that information in
6 some other manner, either through written notice or
7 publication or something?

8 Because it requires an affirmative act,
9 it requires the members of the public to say: Well, I
10 have got to take off the time and actually attend an
11 office and plow through some maps just to find out that
12 they are going to be spraying a half a mile down the
13 road from me.

14 MR. CHURCHER: I can envisage occasions
15 when that may be a problem, however, I believe there
16 were numerous references in Panel 13 to members of the
17 public phoning the district office and asking them for
18 information and: Was that spray block that was going
19 to be -- or a half a mile down from my cottage, was
20 that ever approved. And whoever answers the phone can
21 look at the project description and say: Yes, it was
22 or no, it wasn't.

23 THE CHAIRMAN: And is that referred to in
24 the notices, rather than coming in you can phone in?

25 MR. CHURCHER: I believe the phone number

1 of the district office is provided. I don't believe
2 it's necessarily highlighted that that is an option.

3 THE CHAIRMAN: The reason I am bringing
4 this up, Mr. Churcher, is that we have received some
5 comments from the public -- from the public session in
6 Dryden, that they are inundated with open houses,
7 particularly if they are in areas where a number of
8 activities are going to occur, and it becomes somewhat
9 onerous in terms of the public keeping up to date on
10 what may directly affect them.

11 There is a lot of situations where if
12 they go in they may find out that they are not directly
13 affected; had they known that they wouldn't have gone
14 presumably. And I am just wondering if the Ministry
15 has given some attention to those kind of concerns to
16 providing information to the public which is of use to
17 them specifically in alerting them to something which
18 may impact upon them directly and, therefore, that
19 triggers the decision as to whether or not they should
20 find out more, specifically, or whether it's one of the
21 ones they can skip?

22 MR. CHURCHER: Well, not having had
23 district experience first-hand, perhaps I would open
24 that up to my fellow panel members who have had such
25 experience.

1 MR. DAVISON: Mr. Chairman, just going
2 back to your question earlier and my remarks, I
3 carefully looked over on page 752 of the Exhibit 813B
4 and, yes, we did include a fact sheet describing the
5 proposed spray program and also a map.

6 So, yes, we did exactly I think what you
7 are talking about.

8 THE CHAIRMAN: Right. And would you not
9 suggest that that is sort of an important aspect of
10 that notice so that people can look at it directly and
11 say: I should be finding out more about this, if they
12 are concerned, as opposed to forcing them into digging
13 up the information by coming in and all the obligations
14 that that entails?

15 MR. DAVISON: We did this in replace of
16 putting that ad in the paper and trying to locate the
17 blocks. We did that in replace of that. Yes, that
18 sounds reasonable.

19 MR. FREIDIN: Q. And I note that the
20 public notice that goes out, if you turn to page 761,
21 is that the public notice or one of the public notices
22 that goes out?

23 MR. CHURCHER: A. Yes, those -- on 761
24 and 762, I believe that those are examples of the
25 30-day notice and the 7-day notice respectively.

1 Q. Right. And although there is no map,
2 perhaps for the reasons you have already indicated,
3 there is indication that further details about the
4 program are available from the Ministry of Natural
5 Resources and the telephone number is provided?

6 A. That is correct.

7 Q. Okay. And what happens to a project
8 if there is a request for bump-up, Mr. Churcher?

9 A. The same process that Mr. Bisschop
10 referred to a couple of Thursdays ago, September 21st I
11 guess it was, about the bump-up procedure as it relates
12 to TMP would apply to aerial insecticide programs as
13 well.

14 Q. Thank you. And can you just refresh
15 the Board's memory regarding the requirement for areas
16 that are to be sprayed to be posted?

17 A. Yes. Any area that would be sprayed
18 would be posted in advance of the spray program within
19 7 days of the spray program commencing, or that block
20 being sprayed using the large green and yellow signs
21 that Mr. Iskra had pictures of in Panel 13.

22 And within I believe 24 hours of the
23 actual spray occurring, the date -- the actual date of
24 the spray and what it was sprayed with would be added
25 to the signs and those signs remain for at least 30

1 days.

2 MR. FREIDIN: And just for your
3 reference, Mr. Chairman, the procedure that deals with
4 that commences at page 614 of Exhibit 813B. And the
5 bulletin which deals with that particular matter has
6 been previously marked as Exhibit 666.

7 MR. DAVISON: Yes, that's correct.

8 MR. CHURCHER: And that is essentially
9 the end of the planning process for a typical aerial
10 application of insecticide program.

11 There is one final section in Appendix 3
12 and that discusses the eventuality of identification of
13 an insect population that requires immediate treatment
14 where there is not enough lead time to go through this
15 lengthy process.

16 MR. FREIDIN: Q. And can you provide an
17 example of where you might need to move on a problem
18 quickly and thereby not be able to follow the full
19 process that you've just described?

20 MR. CHURCHER: A. There is two examples
21 I would like to give. The first is, when a population
22 of saw flies, for instance, which normally attack
23 younger trees and plantations or regenerated areas, and
24 normally these populations are just on sporadic trees
25 here and there throughout a population and can be

1 treated quite adequately using a backpack sprayer from
2 the ground just walking through the plantation and
3 treating individual trees.

4 However if in July, for instance, it was
5 noted that there were a large number of these saw flies
6 spread throughout the plantation or in fact a number of
7 plantations had very high populations, it might be
8 deemed most effective and appropriate to treat all of
9 the plantations from the air, and the best time or the
10 time when the saw flies would be most susceptible to a
11 spray would be in late July or August. If the problem
12 was not identified until July then you have only a
13 matter of weeks to gear up and conduct the spray
14 program.

15 A second example, and one which has
16 occurred fairly recently in 1986 I believe, is the
17 gypsy moth program in southern Ontario. While this
18 example is outside of the area of the undertaking, it's
19 no reason why it couldn't occur elsewhere with another
20 insect somewhere else in the province.

21 Now, we had already begun a gypsy moth
22 spray program and it was noted that there was a
23 provincial park where we did not believe there was a
24 gypsy moth population but damage was occurring in that
25 park and indeed the cause was determined to be gypsy

1 moths.

2 Because gypsy moths are distributed most
3 commonly by attaching themselves to tents or trailers
4 or cars or other paraphernalia that are moved by man,
5 and because provincial parks are areas with very
6 transient populations of human beings it was felt that
7 that park area should be treated to reduce the
8 population as much as possible and reduce the
9 possibility that the gypsy moth could be distributed
10 from southern Ontario to northern Ontario, which to
11 date has not been infested or generally infested.

12 As it turned out, upon further
13 examination of the park by myself, the area that seemed
14 to be infested by gypsy moth was very localized, one
15 area of the park, there was not a high population there
16 and it was decided not to conduct a spray program after
17 all.

18 However, again, that is an example of
19 where we might end up spraying on short notice an area
20 that had not originally been identified in the longer
21 planning process.

22 Q. If such a situation should occur that
23 you can't follow the entire process, is any notice
24 given to the public regarding your intention?

25 A. Yes. As many of the requirements

1 that I have identified earlier would be met. The two
2 minimum requirements I would suggest are obviously to
3 get approval from the Ministry of the Environment to
4 conduct the program and, secondly, to have some form of
5 public notification.

6 The 7-day notice in the newspaper, if
7 there was enough time for that, would satisfy that
8 requirement and if 7 days -- if there was not 7 days,
9 then announcements in local television or radio
10 announcements would probably satisfy that requirement,
11 but there would certainly be some notification of the
12 public.

13 Q. The last item I understand that you
14 want to deal with is a draft term and condition?

15 A. Yes. If I can refer you to Exhibit
16 700, the draft terms and conditions. Mr. Groves has
17 already spoken to term and conditions No. 36 and 39
18 which, in part, deal with insecticides.

19 However, in addition, term and condition
20 No. 38 is devoted solely to the use of insecticides and
21 I would like to read that into the transcript at this
22 point.

23 THE CHAIRMAN: Well, is it necessary to
24 read the whole thing as opposed to just highlighting
25 it?

1 MR. CHURCHER: Probably not. Term and
2 condition No. 38 essentially summarizes all of the
3 major points that are made in Appendix 3 and the points
4 that I have highlighted in the last three quarters of
5 an hour.

6 It talks about formal opportunities for
7 public consultation, the formalized public review as
8 well as the public inspection. It talks about bump-up,
9 it talks about the establishment of multi-disciplinary
10 working committees. It also addresses the
11 identification of areas that are eligible for
12 treatment, the consideration and analysis of options
13 and, finally, it talks about the provisions for
14 immediate treatment of areas that have been identified.

15 Prescribed Burns and Pesticide Projects

16 38. MNR shall ensure that projects involving aerial
17 application of insecticides shall be prepared in
18 accordance with MNR's annual planning procedure for
protection operations. Particulars of that
planning procedure are:

- 19 (a) two formal opportunities for public
20 consultation, including:
21 (i) a public Information Centre prior to a
decision on a protection program, and
22 (ii) public inspection of MNR's approved
23 protection program;
24 (b) provisions for "bump-up";
25 (c) the establishment of multi-disciplinary
District and Regional Committees to produce a

- 1 District protection program;
- 2 (d) the identification of areas eligible for
3 protection operations;
- 4 (e) the consideration and analysis of management
5 options; and
- 6 (f) provisions to allow for immediate treatment of
7 localized insect of disease infestations.

8 MR. FREIDIN: Mr. Chairman, I think that
9 would be an appropriate time to break. I have a matter
10 that I have to deal with and I am just wondering
11 whether we could break for an extra half hour.

12 THE CHAIRMAN: Until 2:30?

13 MR. FREIDIN: Yes.

14 THE CHAIRMAN: Very well. We will break
15 until 2:30.

16 Thank you.

17 ---Luncheon recess taken at 12:35 p.m.

18 ---On resuming at 2:30 p.m.

19 THE CHAIRMAN: Thank you. Be seated,
20 please.

21 MR. FREIDIN: Okay.

22 Q. Before we get to you, Mr. Davison, I
23 have just two questions for Mr. Groves.

24 I asked you this morning, Mr. Groves,
25 about the opportunity for public involvement in
26 relation to prescribed burns and you responded by

1 indicating that notice would be provided to people that
2 the prescribed burn plan was prepared and that they
3 could come in and inspect it. And I understand that
4 you wanted to make a further response to that question?

5 MR. GROVES: A. Yes. I would like to
6 describe, using a prescribed burn plan that I was
7 involved with as an example, how the public does get
8 involved.

9 Q. And is this public involvement after
10 the plan is prepared or before the plan is prepared?

11 A. It's in the preparation of the plan.
12 They were involved in the actual boundary lay out of
13 the plan.

14 Q. All right. Proceed then.

15 A. Okay. After the application for the
16 prescribed burn was initially signed by the district
17 manager, part of the exercise is to identify values in
18 and around the proposed potential prescribed burn area.

19 In this particular fire there was a
20 tourist outfitter that was in the vicinity of the
21 potential prescribed burn. We notified the individual
22 saying we are going to continue on, shall we say,
23 timber activities in the area and that individual had
24 been involved in the laying out of the harvest block in
25 the vicinity of his area, and we sat down with him and

1 we discussed: Okay, we are now going to carry out a
2 prescribed burn and these are some of the things that
3 we think we can do with regard to the boundaries - and
4 some of those things are using natural boundaries that
5 Mr. Elliott talked about when he talked about .
6 prescribed burns - and got him involved in: Okay, you
7 have detailed information of that ground perimeter
8 probably more if not -- well as much, if not more than
9 what the Ministry had at the time because he was
10 actively pursuing and living in that particular area.

11 So using his knowledge and our knowledge
12 of what fire behaviour was we developed a prescribed
13 burn boundary which we thought was safe and effective
14 way, and it was during that process where we developed
15 the boundaries. We then completed the prescribed burn
16 plan and then it was then approved and then the notices
17 were sent out.

18 Q. There was also some discussion this
19 morning regarding the type of notice that the public
20 might require, the form that those notices might take
21 and, based on your experience, Mr. Groves, could you
22 comment generally on the adequacy of the notices and
23 the manner in which you deal with providing the public
24 with notice of activities or notice of certain
25 processes being implemented?

1 A. The majority of stakeholders that
2 I've been dealing with, tourist outfitters, trappers,
3 mining companies in the timber management plans that
4 I've been involved with had a fairly good understanding
5 of what renewal and maintenance meant.

6 Q. Pardon me, they had a good
7 understanding of what?

8 A. What renewal and maintenance meant.
9 That was one of the activities that was identified in
10 the timber management plan, that it will cover renewal
11 and maintenance, access.

12 So they knew that there would probably be
13 some tree planting going on, there might be prescribed
14 burns going on, they had been living in the area, they
15 had seen prescribed burns, they had seen these
16 activities and they had been driving by them and they
17 have been surrounded by them over the past years, and
18 they had been at other information centres and other
19 open houses.

20 So they had a good understanding of what
21 we meant by when we refer to, say, something like
22 renewal and maintenance.

23 Q. And, Mr. Davison, I understand that
24 you are the author of Document No. 7 which appears in
25 Exhibit 813B commencing at page 633; is that correct?

1 MR. DAVISON: A. That's correct.

2 A little confusing, we are all changing chairs around
3 here.

4 MR. FREIDIN: There are two bundles --
5 two exhibits that I would like to have marked, Mr.
6 Chairman, at this time in relation to Mr. Davison's
7 evidence.

8 The first again are copies of overheads
9 which will be used. They can be numbered A through E
10 and they can probably be entitled: Overheads re:
11 Document 7, Protection Planning.

12 THE CHAIRMAN: Very well. Exhibit 870, A
13 through E.

14 MR. FREIDIN: (handed)

15 ---EXHIBIT NO. 870: Hard copies of overheads re:
16 Document 7, Protection Planning
(Pages A through E).

17 MR. FREIDIN: Perhaps I will leave the
18 second document until later, Mr. Chairman. I think
19 that would be the best way to deal with it.

20 Q. Now, Mr. Davison, could you perhaps
21 indicate how you intend to deal with the document which
22 you have authored, Document No. 7, and the large amount
23 of backup material which was available in the EA
24 reading room?

25 MR. DAVISON: A. This document, Document

1 No. 7, describes a real life example of planning for
2 protection operations following a similar procedure to
3 what Mr. Churcher has outlined in Document No. 6 using
4 the budworm infestation in the Terrace Bay District of
5 the northcentral region in 1986-87.

6 As you can see from the overhead, I will
7 be generally following the headings and trying to bring
8 the Board through this planning process step-by-step
9 showing how the planning for protection operations was
10 actually carried out.

11 Q. Will you be spending more time on
12 certain parts of Document 7 than others?

13 A. I will probably spend more time on
14 the -- I will go through quickly the first part, the
15 history, the forecast; I will be dealing with the
16 selection of areas, consideration and analysis of
17 options in detail, and also public involvement I will
18 be talking about in detail as well.

19 Q. Okay. So you will be concentrating
20 on 3, 4, 5 and 8?

21 A. That's correct.

22 MR. FREIDIN: Before we get into the
23 actual evidence regarding what happened, you have
24 informed me you have got a number of books, seven in
25 number, which I am going to give to Mrs. Koven.

1 (handed)

2 Q. And they are marked as Books 1
3 through 7 and perhaps you could, in a fashion similar
4 to Mr. Multamaki, describe in general terms what is
5 contained in each of these seven books. Perhaps you
6 could start off by saying what are the seven books in
7 total all about?

8 MR. DAVISON: A. Okay. All the seven
9 books are not -- it's not a plan, it's background
10 material and maybe if I could refer you to the Table of
11 Contents starting on page 659 I will go through this
12 very quickly just to give you an idea of what is
13 contained in these books.

14 THE CHAIRMAN: Can we call these, Mr.
15 Freidin, Exhibit 871, Books 1 through 7?

16 MR. FREIDIN: Yes.

17 ---EXHIBIT NO. 871: Background information, Books
18 1 to 7.

19 MR. FREIDIN: Q. Which page are we
20 looking at, Mr. Davison?

21 MR. DAVISON: A. Page 659 of Exhibit
22 813B. Generally what I have done here is put together
23 in book form material that was generated during the
24 planning process between the time of August 1986 and
25 the time that the actual spray program was carried out

1 in May and June, 1987.

2 I have assembled the information in the
3 form of books and the collection includes information
4 relating to the provincial level of planning, the
5 northcentral regional level of planning and right down
6 to detail in Book No. 6, the Terrace Bay District
7 planning.

8 Book No. 7 is the operations plan which
9 was described earlier in Panel 12 and 13, and all this
10 information is -- I felt would be useful to the Board
11 and to the public to understand the complexities of the
12 planning process and planning for such a large program
13 as this that was carried out in 1986/87.

14 Even though there's a lot of reading
15 material here, I have tried to index it so that people
16 could follow it through and understand. There is even
17 information regarding communications planning, there is
18 media releases in there, there's transcripts from radio
19 interviews, newspaper clippings, et cetera. There's a
20 lot of material there.

21 THE CHAIRMAN: We don't doubt that for a
22 minute.

23 MR. FREIDIN: Q. Exhibit 870B is
24 entitled: Terrace Bay District, Protection Planning
25 Schedule. Are there any comments you want to make

1 about that before we move on and talk about particular
2 documents that you would like to highlight?

3 MR. DAVISON: A. Similar to Mr.
4 Churcher's evidence earlier today, this is the actual
5 planning schedule which was carried out in 1986/87 for
6 Terrace Bay District.

7 You can see the first part of the problem
8 identifies selection of areas, analysis of options is
9 carried out in the first three to four months.
10 Generally it took place between September and January,
11 and then we had the information centre in January,
12 finalization of the program, MOE notification and the
13 actual program was carried out in the first week of
14 June, 1987.

15 The only real difference here is that we
16 were only required to give a 15-day notice at this
17 time; now that's changed and we are required to give a
18 30-day notice for the information centre.

19 Q. Are there any particular documents
20 which were followed or applied during the planning
21 process that you wish to highlight, Mr. Davison?

22 A. Yes. This process was carried out in
23 1986/87. We used the draft 1985 EA Document, Appendix
24 No. 3. Of course, we used the policy and procedure FRO
25 04 10 01 which is the policy Aerial Application of

1 Insecticides for Forest Management in Ontario and that
2 is still the current policy. We used --

3 Q. That is Exhibit 604A which is
4 reproduced at pages 147 to 148.

5 A. We used procedure FRO 04 10 10 which
6 was dated November, 1985 and which has been given
7 earlier in evidence, there is now a new procedure dated
8 1987. We also followed the exemption order, Exhibit
9 21, with regards to public notice, and also the
10 Ministry of the Environment buffer zones dated April,
11 1987 which is the present buffer zones in place.

12 THE CHAIRMAN: What does the exemption
13 order regarding public notice say?

14 MR. DAVISON: 30 days.

15 MR. FREIDIN: Q. Do you have a copy of
16 the exemption order there, Mr. Davison, or are you able
17 by memory to indicate?

18 MR. DAVISON: A. It's in Book No. 1 and
19 I think it's a red binder there, and offhand it
20 requires a 30-day notice. That's what the exemption
21 order requires, 30-day public notice prior to
22 operations.

23 THE CHAIRMAN: What does the exemption
24 part refer to? What are you exempting from what?

25 MR. FREIDIN: No, this is the exemption

1 order which exempts timber management.

2 THE CHAIRMAN: Oh, I see.

3 MR. FREIDIN: It's a term or condition of
4 that exemption order that certain things be done in
5 relation to the aerial application of insecticides.

6 THE CHAIRMAN: Thank you.

7 MR. FREIDIN: And just for reference
8 purposes again, Mr. Chairman, the procedure that was
9 referred to is reproduced at page 614 of Exhibit 813B.

10 Q. Now, before we start, could you tell
11 us or pinpoint for the Board where Terrace Bay District
12 is, and I guess we have got another overhead of that?

13 MR. DAVISON: A. That's correct.
14 Terrace Bay District is located in the northcentral
15 region. The Ministry of Natural Resources, as you can
16 see, is north of Lake Superior.

17 Q. Could you provide some history
18 leading up to the decision to commence planning for
19 protection operations in the Terrace Bay District?

20 A. Okay. As the the spruce budworm
21 infestation was a long-standing infestation in Ontario,
22 the history of it goes back several years, it wasn't a
23 new infestation at all and is one that we had planned
24 for protection operations in previous years.

25 If I can have the Board refer to pages

1 707, Exhibit 813B. And while we are looking at the
2 overhead, try to keep in perspective of where Terrace
3 Bay District is and try to go through pages 707 to 712
4 and generally you can see that the large infestation
5 was in northeastern Ontario and was progressing in a
6 westward fashion at a slow rate between 1980, 1981,
7 1982, 1983 and encompassed, as you can see on page 710,
8 it encompassed the southeast corner of Terrace Bay
9 District.

10 The infestation grew significantly in
11 1984 to almost encompass the total district. In 1985
12 it actually encompassed the whole district of Terrace
13 Bay and a large portion of the southern part of the
14 northcentral region. 1982, in Terrace Bay it
15 encompassed about 39 per cent of the district; in 1985
16 it encompassed 100 per cent of the district.

17 Now, if I could show the 1986 defoliation
18 map.

19 Q. One map?

20 A. Yes, the one map, a big map.

21 MR. FREIDIN: Perhaps we can begin, Mr.
22 Chairman, by marking that as an exhibit.

23 Q. What would we call this, Mr. Davison?

24 MR. DAVISON: A. It's probably on there,
25 Mr. Freidin.

1 MR. FREIDIN: Spruce Budworm Defoliation
2 Map in 1986 and Forecast for 1987, Northwestern
3 Ontario.

4 THE CHAIRMAN: Exhibit 872.

5 ---EXHIBIT NO. 872: Map entitled: Spruce Budworm
6 Defoliation in 1986 and Forecast
for 1987, Northwestern Ontario.

7 MR. DAVISON: This is the 1986 map
8 produced by the Canadian Forestry Service. It shows
9 two things. First of all, the coloured-in areas, the
10 red and the yellow, indicate the defoliation which
11 occurred in 1986 by the spruce budworm. The
12 defoliation is mapped from the air, I think as
13 previously has been explained in a previous panel.

14 Generally the yellow is the moderate
15 areas and that is where you have defoliation of between
16 25 and 60 per cent of the current foliage, and
17 generally the red is the severe areas where you have
18 greater than 60 per cent of the current foliage
19 defoliated. This information is usually collected by
20 the Canadian Forestry Service in July, and it was
21 collected July of 1986.

22 Now, in addition to that, you have the
23 circles you see here, circles and squares, and those
24 are from their egg mass surveys done in August of 1986
25 which indicate a forecast level for the spruce budworm

1 for 1987. Generally the purple and the red coloured-in
2 are the moderate and severe areas.

3 MR. FREIDIN: Q. The areas which are
4 forecasted to fall into that category in the following
5 year?

6 MR. DAVISON: A. That's correct, 1987.
7 You can see here, if you look at where Terrace Bay is
8 on the overhead and you locate Terrace Bay here,
9 Terrace Bay District is right out in this part over
10 here. (indicating)

11 Generally the infestation encompassed the
12 whole district with most of it being in a severe
13 category. The forecast levels for 1987 on the western
14 side still indicated moderate to severe; where you can
15 see on the eastern side of the district the infestation
16 forecast for '87 was starting to drop off to low to
17 moderate.

18 Q. You referred to there being egg mass
19 surveys done in August of 1986. Who did those?

20 A. Those are also done by the Canadian
21 Forestry Service. The Canadian Forestry Service
22 publishes three bulletins a year which are used by
23 field staff, by district staff, and these were
24 explained earlier. Spring, summer and fall bulletins,
25 Forest, Insect and Disease Survey Bulletins is what

1 they are called.

2 Generally speaking, the spring bulletin
3 talks about what happened in the previous year and
4 generally talks about what's expected to happen in the
5 next year. The summer bulletin talks about the
6 defoliation which has occurred in that particular year,
7 and the fall bulletin then goes into detail regarding
8 the forecast for the next year.

9 And these bulletins greatly assist the
10 field staff in planning for what's going to happen in
11 the infestation the next year and what course of action
12 the district should consider.

13 MR. FREIDIN: Just for your reference,
14 Mr. Chairman, we have copies of the bulletins issued in
15 the spring, summer and fall of 1986.

16 Q. Are they the entire bulletin or just
17 portions of those bulletins, Mr. Davison?

18 MR. DAVISON: A. Just portions of the
19 bulletins are included in Document No. 7, pages 677 to
20 687, just the portion that deals with the spruce
21 budworm.

22 Along with this information, the district
23 field staff use the expertise of our own main office
24 staff, Mr. Churcher who is our provincial entomologist.
25 So between the expertise in the Canadian Forestry

1 Service and our own expertise we have main office, we
2 call upon these people to assist us.

3 Q. I would like to ask you just a few
4 questions about the district and regional committees,
5 Mr. Churcher described them in general. Firstly, which
6 committee were you on and what was your role?

7 A. During that year I was the Regional
8 Budworm Coordinator in northcentral region and my role
9 was just that, coordinate the protection planning for
10 the northcentral region.

11 Q. And is there anything you would like
12 to say or any comments you would like to make about
13 those committees in addition to what was covered by Mr.
14 Churcher?

15 A. If we could go back to the exhibit
16 Mr. Churcher had, 869C, generally the committees were
17 multi-disciplinary committees that were comprised of
18 representatives from fish and wildlife, forest
19 management, lands, parks.

20 At the regional level we had MNR staff
21 from the pest management section and we had
22 representatives from the Ontario Forest Industries'
23 Association. We also invited the pesticide control
24 officer of the Ministry of the Environment to our
25 meetings as well.

1 The duties, as explained in the Exhibit
2 869C, pretty well explains the roles as they were at
3 that time as well, and at the regional level it was to
4 review and coordinate information, distribution,
5 integration, to ensure the application of the annual
6 planning procedural was carried out properly in all
7 districts in the region.

8 At the district level, again, you had a
9 multi-disciplinary committee and representatives. The
10 district manager actually chaired the committee in that
11 particular year. Representatives from fish and
12 wildlife and parks, forest management and the forest
13 industry as well.

14 At the time of -- in February of 1987 I
15 moved on and became the forest management supervisor in
16 Terrace Bay District, so I was there for the
17 implementation of the last part of the actual program.

18 Q. In addition to the policy and the
19 procedure that we have heard about in this panel and in
20 earlier panels which deals with the aerial application
21 of insecticides, is any other guidance or direction
22 provided to the field in relation to protection
23 planning?

24 A. Yes, there was. As the Regional
25 Budworm Coordinator, I thought it might be of

1 assistance to the district working committees if they
2 had a further guidance, and the guidance wasn't in the
3 form -- it was in the form of guidelines, it wasn't to
4 take the place of any existing procedure, it was to
5 assist them in working with the current procedure, and
6 also assist the region when it came time to review all
7 the district strategies to try to pull it all together.

8 If I can refer the Board to pages 692 to
9 697 of Exhibit 813B, you will see these are the
10 guidelines that were prepared for preparation of the
11 '87 strategies for dealing with spruce and jack pine
12 budworm.

13 If I can refer particularly to page 694,
14 it is entitled Appendix 1, and just briefly the
15 summary -- the table of contents which was expected in
16 each one of the strategy reports prepared by all the
17 districts in the northcentral region included a
18 summary, an infestation and forecast, program
19 objectives and rationale, industry response,
20 integration, anticipated public response, and these
21 were the sections which were included in the strategy
22 reports.

23 One thing I just want to mention before
24 we move on is the structure of the committees. The key
25 message there was that the committee function in an

1 integrated way and that it was representative by all
2 different programs and all different programs had the
3 opportunity of input during the planning process.

4 The meetings that the committee at the
5 district level had, we had -- there was two normal
6 meetings and of course several informal ones, and the
7 informal ones would take place out in the field
8 actually examining the values and trying to determine
9 which option would be best.

10 Q. Mr. Davison, I assume that the
11 Terrace Bay District identified areas which were
12 eligible for spray operations?

13 A. Yes.

14 Q. Could you explain how those areas
15 were identified?

16 A. Stands eligible for treatment, as Mr.
17 Churcher had mentioned earlier, had to met three
18 criteria. First of all, they must be susceptible to
19 the insect/pest; secondly, hold a value as either a
20 commercially operable forest or a high value forest -
21 and the Board has been -- this has been mentioned
22 before what those are defined as - and the last one,
23 thirdly, be infested or threatened by the pest.

24 The first piece of information that the
25 district working committee had available to them was a

1 susceptible forest stand map which was prepared in
2 1984. If you would put that up, Mr. Freidin.

3 THE CHAIRMAN: Exhibit 873.

4 MR. FREIDIN: 87...?

5 THE CHAIRMAN: 3.

6 MR. FREIDIN: And that is -- it's a map
7 of Spruce Budworm Susceptible stands, Terrace Bay
8 District, 1984.

9 ---EXHIBIT NO. 873: Map entitled: Spruce Budworm
10 Susceptible Stands, Terrace Bay
 District, 1984.

11 MR. DAVISON: As the history of the
12 spruce budworm in the northcentral region was one with
13 a long history to it, in 1984 the northcentral region
14 coordinated a mapping exercise in all the five
15 districts and that was to map all the spruce budworm
16 susceptible stands, stands that had a minimum
17 composition of 40 per cent to either white spruce or
18 balsam fir.

19 This mapping exercise was carried out and
20 broken into two age-classes. Generally the orange on
21 this map is the age-class of 35-59 year old stands and
22 the green is stands that are 60 years old. This piece
23 of information was used by the district working
24 committees to first identify where the spruce budworm
25 susceptible stands were in their district.

1 THE CHAIRMAN: What is the significance
2 of not going below 35 years?

3 MR. DAVISON: Well, I will talk about
4 that later, but there is no -- for this exercise done
5 in 1984 that was just the cut-off year, but you are
6 right, there is other areas that are eligible below 35.

7 In this particular case, I believe it was
8 below that they were regeneration areas you could
9 consider, and that was an immature age-class. 60 years
10 was the rotation age for balsam fir at that particular
11 time, so 35-59 would have been immature and 60 would
12 have been plus or mature to overmature wood.

13 THE CHAIRMAN: Why wouldn't you be just
14 as concerned to protect the immature class as, say, the
15 overmature class which would probably already be on its
16 way to dying?

17 MR. DAVISON: Below 35 years?

18 THE CHAIRMAN: Yes.

19 MR. DAVISON: Yes. Well, we are
20 concerned.

21 THE CHAIRMAN: You are concerned.

22 MR. DAVISON: Yes, and I will go through
23 and explain that. But for this mapping exercise we
24 were looking at existing forest stands that had ages
25 identified on them to be able to map them.

1 MR. FREIDIN: Q. Those stands then were
2 the stands which would be susceptible to the insect
3 pest which would in fact satisfy the first criteria for
4 an area to be identified as an area eligible?

5 MR. DAVISON: A. That's correct.

6 Q. The second criteria that you said had
7 to be met was that the area had to hold a value as
8 either commercially operable forest or high value
9 forest. Could you explain that?

10 A. Areas of high value forest, as was
11 explained earlier, including the regeneration areas,
12 research areas, tree improvement areas, parks, unique
13 areas, these include the areas that are below 35 years
14 of age, were also examined by the district working
15 committee.

16 The information was assembled but at that
17 particular time not put on one map. The only thing we
18 had on one particular map was the susceptible forest
19 stands. We had that other information available, but
20 it wasn't put on one map form, but it was all examined.
21 As they all fall into the category of high value
22 forests, they were examined.

23 The third was that the district working
24 committee finally, after compiling the information on
25 susceptible forest stands and stands that were

1 commercially operable and high value forests, then
2 compared these areas to the areas identified that were
3 shown on the large defoliation map, the area that was
4 infested or threatened by the spruce budworm.

5 So in that particular year the only one
6 map we had was that map there and the other information
7 we had was from our files that shows research areas,
8 regeneration areas, parks, et cetera, but they were all
9 considered.

10 Q. Mr. Churcher, if I could just go back
11 to you. The three criteria which are the criteria used
12 to identify eligible areas were identified by you in
13 your evidence today and you also identified those in
14 Panels 12 and 13.

15 By applying those criteria you don't
16 identify every stand that's infested as an area which
17 is eligible; is that correct?

18 MR. CHURCHER: A. Yes, that's correct.

19 Q. What is the reasoning for that?

20 A. Well, there may be some stands that
21 would be susceptible to damage that are not yet
22 infested but are in fact threatened; in other words,
23 the infestation is nearby and so they too would be
24 identified as being eligible for some form of
25 protection.

1 Q. When you mapped these areas in
2 1986 --

3 THE CHAIRMAN: Excuse me, Mr. Freidin,
4 just to go back for a second.

5 Mr. Churcher, if you are considering
6 whether or not the stands are commercially operable,
7 does that mean they have to be commercially operable
8 within the present 20-year planning horizon?

9 MR. CHURCHER: Yes, as a matter of fact
10 it is within 10 years. Part of the definition of a
11 commercially operable forest is that if it is going to
12 be sprayed, it must be harvested within 10 years of the
13 initiation of the spray program. So, therefore, it has
14 to be currently mature or overmature or very close to
15 reaching that rotation period or rotation age.

16 MR. FREIDIN: Q. And I understand
17 there's an opportunity for a company, for instance, to
18 identify stands which are going to be harvested beyond
19 the 10 years in certain circumstances, and in certain
20 circumstances they will in fact also be protected?

21 MR. CHURCHER: A. Yes, that's true, but
22 in those cases they would have been classified as a
23 high value forest; the value being the need for that
24 forest to maintain the long-term --

25 THE CHAIRMAN: But what does that do for

1 the areas that are presently regenerated, maybe not yet
2 having reached free to grow status, could be wiped out
3 by infestation, would not be commercially operable
4 within 10 years; what happens to the future if, in
5 fact, those regenerated areas are wiped out?

6 MR. CHURCHER: Well, there again, we have
7 another category of high value forest that addresses
8 the plantation or the young regeneration areas.

9 However, in the case of spruce budworm,
10 generally it does most of its damage to mature and
11 overmature age-classes, relatively minor damage in the
12 younger stands or plantations.

13 In Panel 13 I believe I used the analogy
14 of pneumonia and the effect of pneumonia on a
15 90-year-old person versus a 35 or 40-year-old person.

16 MR. FREIDIN: Just to address that
17 concern, Mr. Chairman, perhaps we could just go back
18 and very briefly revisit the procedure that does, in
19 fact, identify or define commercially operable and high
20 value forests just for a moment, because I think that
21 really is the concern that you have.

22 Q. So could either Mr. Davison or Mr.
23 Churcher refer the Board to the procedure that defines
24 those two types of forests and what is included in
25 them?

1 MR. CHURCHER: A. Yes, the definitions
2 would be found on page 615 and 616 of Exhibit 813B.

3 Q. Perhaps you could just briefly go
4 through those, Mr. Churcher?

5 A. Yes. Those two pages are pages 2 and
6 3 respectively of the procedure that we have referred
7 to quite often as FR 04 10 10. And commercially
8 operable forests are defined at the bottom of page 615
9 and, as I indicated, those are forests that will be
10 harvested within ten years.

11 And there is some identification of
12 minimum stocking requirements in there as well, and
13 there a further three criteria is that if access is not
14 already into those areas, then access must begin --
15 construction of access must begin within four years of
16 spraying and must be completed within seven years.

17 Spraying will occur a maximum for only
18 six of those ten years before they are harvested.
19 Again, these are all maximums and, of course, that the
20 insect population must be at a high enough level to
21 cause some kind of damage.

22 The other type of forest that would
23 receive protection are called high value forests and
24 they have some kind of value, and that is broken down
25 into three categories. Category 1 being investment and

1 management value, and that would be the young
2 plantations that we talked about, regeneration areas.

3 The third bullet point there is the other
4 area that we talked about, stands that aren't yet at
5 rotation age would not be harvestable within ten years
6 but are essential to the long-term annual allowable cut
7 or the long-term harvest.

8 Going over to page 617 it describes the
9 other two categories of high value forests, those
10 forests holding aesthetic values and also those forests
11 holding an ecological value. Does that clarify things?

12 THE CHAIRMAN: Yes, thank you.

13 MR. FREIDIN: Q. Now, Mr. Davison, we
14 have used two terms here, we have talked about areas
15 which are susceptible and we had the 1984 map of
16 susceptible areas; we have talked about areas which are
17 eligible for protection, and they have to meet the
18 three criteria that you described.

19 Firstly, is there a difference between
20 areas eligible and areas susceptible?

21 MR. DAVISON: A. Yes, there is.
22 Susceptible stands as were mapped in 1984, and that was
23 1984, things have changed now and, as Mr. Churcher just
24 mentioned, commercially operable forests and high value
25 forests, all the categories within those, those are

1 eligible forests. Susceptible forests was something
2 done in 1984 and it has now been replaced with
3 eligible.

4 Q. And in 1986 did you map eligible
5 areas or did you map susceptible areas?

6 A. We had a map for susceptible which
7 was updated, I mean just updated meaning that the
8 cut-over which occurred between 1984 to 1986 was
9 removed, so we had a susceptible forest stand that was
10 updated. We didn't have an eligible map, we had other
11 maps but they weren't put on one map and we examined
12 all the eligible areas, but the only thing that the
13 district didn't do was put them on one map.

14 Q. Is there a change in that mapping
15 requirement, Mr. Churcher, a change from what was done
16 in the Terrace Bay District in the 86-87 exercise and
17 now?

18 MR. CHURCHER: A. Yes, in the '87
19 procedure and also in Appendix 3 of the document, the
20 Class EA Document, it refers to an eligibility map. So
21 not only would the stands susceptible, as identified by
22 Mr. Davison, be marked on that map, but also other
23 areas such as provincial parks that might not meet the
24 stocking requirements but have another value as we just
25 talked about as identified in the procedure requiring

1 protection, those other areas would also be marked on
2 the map.

3 Q. And before you hand the mike back to
4 Mr. Davison, while we are talking about differences
5 between Mr. Davison's exercise and the present process,
6 are there any other difference between the process that
7 was followed by Mr. Davison and what is now required?

8 A. No, essentially that is the only
9 major difference. Since Mr. Davison used the draft
10 June -- or the June, 1985 draft of the EA and the
11 Appendix 3 as well as this procedure, that essentially
12 brought him up to the point of where we are in current
13 operations, except for that one exception of mapping
14 susceptible versus eligible.

15 Q. Mr. Davison, can you advise whether
16 you sprayed all the eligible areas in 1987?

17 MR. DAVISON: No, we didn't.

18 Q. All right. And we will be addressing
19 that a little later on as to why in fact that decision
20 was made?

21 A. That's correct, we will be looking at
22 that when we look at the consideration and analysis of
23 options.

24 Q. Okay. Now, you indicated that the
25 spray program actually occurred in the first week of

1 June, 1987?

2 A. That's correct.

3 Q. And what type of response did MNR
4 take as a result of the infestation which was
5 occurring, the forecast for 1987? How did you go about
6 dealing with it, what action was taken?

7 A. Well, the action that was taken when
8 we -- the spruce budworm infestation had been a
9 long-standing concern in the northcentral region, we
10 set up the committee structure for planning for the
11 protection operation. The committees went ahead to
12 develop a strategy of how it was going to deal with the
13 spruce budworm infestation and the strategy included
14 looking at different options and considering an
15 analysis of those options and recommending to the
16 regional director a recommended course of action which
17 it wanted to take.

18 Q. And could you just list for me -
19 we'll go back and ask -- I'm going to go back and ask
20 you how you made the decision, but could you just list
21 for me the options which were actually approved?

22 A. Okay. I think the best way, if we
23 could turn to page 722, Exhibit 813B. This is a page
24 that is right out of the Terrace Bay District strategy
25 report that was prepared by the district working

1 committee and it talks about actually four options, and
2 the only option that is not shown, of course, which was
3 considered was no action, but what it was trying to do
4 here was define what those options that we looked at --
5 what the definition of those options were.

6 So you can see that -- well, the first
7 one that is not there is, of course, no action. The
8 second one -- or the first one on this page is
9 reallocation of susceptible stands, reallocation of
10 susceptible stands to be harvested, accelerated
11 harvest, salvage harvest and, of course, the last one
12 on the page was spraying operations.

13 Q. And were any of those options
14 actually approved and implemented in 1987?

15 A. Yes. Yes, they were.

16 Q. All of them or some of them?

17 A. Okay. If I could go through, maybe I
18 can go through and talk about each one briefly. When
19 we looked at the eligible areas that was -- we talked
20 about that in selection of areas, the district working
21 committee then had a list of all eligible areas.

22 It looked then at the options and
23 considered for each area that was eligible the options
24 of how to deal with that and recommended a course of
25 action. The preferred option which the district

1 working committee recommended was the harvest option.

2 Well, first of all, maybe if I can go
3 back and just talk briefly about looking at the
4 eligible areas first of all.

5 The eligible areas were broken into two
6 groups, commercially operable forests and the high
7 value forest. The district working committee first
8 looked at the high value forest. After examining the
9 high value forest, it did not recommend that any
10 protection treatment be carried out at this time.
11 Examples of the high value forest included the tree
12 improvement areas, regeneration areas, parks, stands
13 required to sustain the long-term allowable depletion
14 research areas.

15 The district working committee and
16 district staff and company staff examined the
17 regeneration, tree improvement, research areas, and a
18 lot of this is done on a regular basis, just being in
19 the field on a routine basis. The damage was very
20 minimal and the recommendation was that it didn't
21 require any form of protection treatment at that time.

22 Fish and wildlife, lands and parks
23 programs in the district did not recommend any areas
24 for protection treatment as well.

25 The long-term spraying; that is, the

1 younger age-classes of balsam fir was considered and
2 for the following two reasons was not recommended:
3 First of all, balsam fir was not a preferred species
4 and that after careful examination of the wood supply
5 that there was an alternative to that long-term wood
6 supply. So the district working committee did not
7 recommend that they get into spraying for these --
8 saving 20, 30, 40-year-old immature age-classes.

9 However, the district working committee
10 then examined those areas that were damaged severely
11 and recommended another course of action, and that was
12 that they would plan to convert those sites which were
13 badly damaged.

14 And the way and means of doing that was
15 to plan for salvage as much as possible - in some cases
16 there wasn't any merchantable wood in these areas, and
17 a lot of this area had already been killed by the
18 budworm - to carry out tramping operations which
19 involved heavy mechanical equipment and then prescribed
20 burning and planting less susceptible species such as
21 jack pine and black spruce.

22 And this actually was carried out in a
23 couple of instances in Terrace Bay District where we
24 did plan and carry out conversion on some of these
25 killed younger age-classes.

1 Q. These are the young balsam fir
2 age-classes?

3 A. That's correct.

4 Q. What was the recommendation in
5 relation to the commercially operable area?

6 A. The district working committee then
7 examined nextly the commercially operable forest and
8 these are the forests that were planned for harvesting
9 within the next ten years.

10 The committee recommended a protection
11 program for these areas for the following reasons: One
12 is that the Ministry and the companies felt that they
13 should try to utilize as much as possible of the high
14 quality white spruce and balsam fir pulpwood before it
15 became unuseable, so that an effort was made to -- this
16 is dealing with mature and overmature wood, trying to
17 harvest as much as possible before it was killed.

18 For those areas that were -- for the
19 commercial operable forests, again, the district
20 working committee then looked at the five options.

21 Q. What decisions were made then by the
22 district working committee to address protection of
23 commercially operable forests?

24 A. There was four decisions made by the
25 district working committee. The first one was to

1 accelerate the harvest of spruce budworm infested
2 stands. The second was proposed protection spraying of
3 infested stands to prevent mortality, improve
4 utilization until harvesting could occur. The third
5 one was to develop a road access program in order to
6 harvest these infested stands. And the fourth one was
7 to regenerate the harvested areas to a desired stocking
8 using the appropriate silvicultural techniques and
9 trying to change from susceptible stand to one that is
10 non-susceptible made up of black spruce or jack pine.

11 Q. Now, I understand you made reference
12 earlier that the strategy is prepared by the district
13 working committee, and am I correct that the strategy
14 prepared by the Terrace Bay District is found at page
15 699 to 735 of Exhibit 813B?

16 A. That's correct.

17 Q. And you will find the Table of
18 Contents for that at page 700?

19 A. That's correct.

20 Q. And that there are minutes of
21 meetings of the district working committee found at
22 pages 736 to 738 dealing with this particular matter if
23 one someone wanted to refer to it?

24 A. That's correct as well.

25 Q. Okay. You indicated, or you started

1 to indicate a moment ago that the preferred option by
2 the district working committee was harvest, and did I
3 hear you correctly?

4 A. That's correct.

5 Q. Could you perhaps...

6 A. The reason for the harvest option
7 being the preferred one was that the integrated
8 strategy dealing with the budworm infested areas was to
9 see that the mature and overmature was harvested as
10 quickly as possible, that was our first objective.

11 So the objective to harvest was our
12 preferred one, was to utilize the maximum amount of
13 timber in those infested stands and, along with that,
14 was that we wanted to turn those areas into something
15 of less susceptible on the more productive sites as
16 quickly as we could in order to maximize those areas'
17 contribution to timber production to the management
18 unit.

19 The preferred option of harvesting can be
20 carried out in one of three ways; and that is, salvage
21 harvest, reallocation of forest stands for harvesting,
22 or the third one accelerated harvest.

23 I would like to say that the forest
24 industry representation on the district working
25 committee was extremely supportive in looking at this

1 option as the preferred one and to plan for harvest the
2 maximum amount of balsam fir and white spruce that it
3 could utilize at its existing mills. And I have to
4 stress that because that is very much a limiting factor
5 of how much of those species, particularly balsam fir,
6 they can utilize.

7 Q. All right. In relation to that
8 preferred option of harvest, can you advise what
9 percentage of the total harvest which was planned in
10 1987-88, which would be the year of the spray, what
11 percentage of that total harvest planned was to occur
12 in eligible stands?

13 A. As I mentioned, the company made
14 every effort to plan a harvest as much as they could
15 and this planned amount was 61 per cent of the total
16 plan harvest for 1987 in the Terrace Bay District, and
17 those were 61 per cent in eligible stands.

18 Q. Was there any incentive provided to
19 the forest industry to employ the harvest option?

20 A. The first and most obvious one is, of
21 course, to utilize the maximum volume of timber that
22 they possibly can from this proposed harvesting areas.

23 The second one is to speed up the
24 conversion of these sites to something of -- made up --
25 dominated by less susceptible species.

1 The Crown also looked at and examined
2 reducing the stumpage rates, Crown dues rate that the
3 companies pay for harvesting timber. We examined each
4 operating block and felt that additional incentive was
5 required, so we considered lowering the stumpage rates.

6 MR. MARTEL: Are they allowed to take
7 more than in the five-year operation plan -- or the
8 one-year plan over the five years when in fact you are
9 doing accelerated cut and so on, or salvaging
10 operations, are you allowed to go beyond what you are
11 limited to?

12 MR. DAVISON: Can you cut more than one
13 fifth?

14 MR. MARTEL: Yes.

15 MR. DAVISON: I think, as was mentioned
16 by Mr. Groves, as long as in the annual work schedule
17 you identify that and explain that, yes, you can go
18 more than one fifth.

19 MR. MARTEL: But it doesn't go beyond the
20 amount allowed over the five-year cycle of the plan?

21 MR. DAVISON: That's correct, unless it
22 was approved in the timber management plan. And I am
23 going to be giving an example of that just a little bit
24 later where, yes, we did exceed the maximum allowable
25 depletion.

1 MR. FREIDIN: Q. You say you can go
2 ahead and, as Mr. Martel indicated, cut more than the
3 maximum allowable depletion if it was in the plan. If
4 it wasn't in the plan but you wanted to go ahead and
5 exceed the maximum allowable depletion, is there a
6 procedure that you follow to do that?

7 MR. DAVISON: A. Yeah, you would have to
8 follow the amendment procedure.

9 THE CHAIRMAN: And are the stumpage rates
10 in any way tied into the quality of the wood being cut?

11 MR. DAVISON: Speaking about the spruce
12 budworm infestation particularly?

13 THE CHAIRMAN: Yes.

14 MR. DAVISON: In the case of the
15 northcentral region, I can speak to that, depending on
16 the severity of the damage, yes, there is a formula of
17 reducing the Crown dues rate paid.

18 In special circumstances where you have
19 an infestation from an insect or you have a natural
20 wild fire, for instance, where the timber has been
21 killed or badly damaged, there is means of reducing the
22 Crown dues rates in order to try to salvage as much of
23 the material as possible you can.

24 THE CHAIRMAN: That is just tied into an
25 impact either natural or otherwise on the quality of

1 the wood as opposed to the wood being of inferior
2 quality with nothing happening to it; in other words,
3 it's just not growing as well as some other stands?

4 MR. DAVISON: You are right. It has to
5 do with a natural insect or a wild fire situation, yes.

6 MR. FREIDIN: Q. Now, you indicated that
7 when you're talking about harvest as an option there
8 are three different types of harvest operations, that
9 you could engage in, and I am just going to -- salvage
10 harvest was one of them. Did you in fact employ the
11 salvage harvest method?

12 MR. DAVISON: A. Yes, we did; that is,
13 we offered reduced Crown dues to the company to harvest
14 certain areas. It was upon our inspection, that is the
15 district inspection of those areas, felt that they were
16 either dead or nearly that way and felt that the
17 Crown -- reduced Crown dues was warranted to give the
18 company the added incentive to get in there and get as
19 much as possible out before everything was lost.

20 Q. All right.

21 A. Some situations where you have 40 or
22 50 per cent of a stand killed or on the verge, the
23 remaining volume is extremely low, and whether it's
24 economical or not to even get in there to harvest is
25 questionable. So this extra incentive helps to get

1 those areas harvested and, in fact, then we can do
2 something with them silviculturally.

3 THE CHAIRMAN: But in a situation like
4 that are you compelled to go through the regular
5 planning process for access to those stands you want
6 harvested quickly?

7 MR. DAVISON: The access would have to
8 have been planned in the timber management plan and if
9 anything falls outside of that, then it has to be dealt
10 with as an amendment. There is no provisions where we
11 can just go and do something, that would still have to
12 be dealt with in some form or another as an amendment.

13 MR. FREIDIN: Q. So you used the salvage
14 harvest option. You also indicated that another
15 harvest option is the accelerated harvest?

16 MR. DAVISON: A. That's correct.

17 Q. Would you explain what that means and
18 did you employ that particular method?

19 A. Mr. Martel raised the question
20 regarding, can we exceed the total MAD. In the case of
21 the Black River forest, which is a management unit in
22 Terrace Bay District, it was an operating plan -- it
23 wasn't a timber management plan, it was an operating
24 plan prepared in 1986, period of 86-91, and within that
25 plan the Minister of Natural Resources approved an

1 overcut of 44 per cent in the balsam fir working group
2 and that was as a result of the damage caused by the
3 spruce budworm and; that is, if we don't harvest it and
4 accelerate the harvest over the MAD that wood is going
5 to be lost. So, yes, we did employ the accelerated
6 harvest.

7 The other units in the Terrace Bay
8 District didn't have to accelerate the harvest over and
9 above the MAD, they were utilizing the full amount they
10 could utilize in their wood processing mills and that
11 wasn't -- that didn't exceed the MAD level.

12 Q. Okay. The third harvest option that
13 you say was considered was the reallocation of forest
14 stands. Was that an option which was employed in the
15 Terrace Bay District as a means of addressing the
16 budworm situation?

17 A. The district working committee
18 considered it along with the other options. It wasn't
19 needed to be employed as a result of the plans were
20 being prepared, the five-year plans, that is, were
21 being prepared at the same time.

22 When we talk about reallocate we really
23 talk about amendment here. An area that hasn't been
24 allocated in the current plans and that now is deemed
25 necessary to be harvested and moved up to schedule,

1 amendment would have to be required in those particular
2 cases.

3 The plans were being prepared at the same
4 time as we were going through the strategy and, as a
5 result of that, we included in the plans those areas,
6 so we didn't have to use that.

7 Just in summary, talking about the last
8 option, as a result then we really had three types of
9 areas that were considered or actually employed. The
10 one was scheduled for harvest, areas that were already
11 scheduled for harvest that we really didn't have to do
12 anything, they were eligible areas but were scheduled
13 previously and were planned to harvest and, therefore,
14 they were just carried out, planned and carried out as
15 they were planned. The next was the salvage areas and,
16 of course, the last one was the accelerated.

17 Q. Another option that you referred to
18 to deal with budworm infestation is the application of
19 insecticides, and I guess we can agree that that option
20 was one which was adopted and in fact implemented in
21 Terrace Bay District?

22 A. That's correct. In order to -- the
23 first stage we went through was to look at harvesting
24 as much as possible of the commercially operable
25 forest. Areas that couldn't be harvested prior to what

1 we figured, damage would be so severe that the stand
2 would be killed. We then consider spraying those sites
3 to hold them until they could be harvested over the
4 next ten years. So, yes, the second option -- the
5 second option which was considered was the spray
6 option.

7 Q. And did you spray all four units in
8 the Terrace Bay District? Was there a spray program in
9 each of the four management units in the Terrace Bay
10 District?

11 A. At this stage of the district working
12 committee preparing the strategy report, and I will --
13 the reason I am qualifying that is later on you will
14 see that that changes - but, yes, the plan was at this
15 stage that there was spraying to occur in all four
16 units in Terrace Bay District.

17 Q. And was the common purpose in all
18 four units to keep the trees alive?

19 A. That's correct, and the objective was
20 to keep them alive until harvesting could occur.

21 Q. Could you turn to page 728 of Exhibit
22 813B, please. If you look at the -- page 728, if you
23 look at the two paragraphs immediately below the table,
24 the first one indicates that both balsam fir and white
25 spruce are in good health and can be protected with a

1 biological insecticide and that the strategy on the
2 unit will be to protect both of these species, and then
3 it goes on.

4 If you go to page 729 under the next
5 table we have a reference again in the first paragraph
6 to biological insecticide being effective to protect
7 both white spruce and balsam fir. And we note in the
8 third line of the next paragraph that the spraying in
9 these particular blocks is intended for the protection
10 of white spruce only.

11 And my question is: Why is there a
12 difference regarding the species which are going to be
13 receiving protection in those two situations?

14 A. Those are the two main susceptible
15 species, balsam fir and white spruce. Similarly to the
16 timber management planning process, planning for
17 protection operations is really carried out at the
18 management unit level; that is, the management unit
19 objectives are examined and the forester in charge of
20 the management unit trying to meet those objectives
21 recommends a strategy.

22 It's a collection of all the management
23 unit strategies put together that make a district
24 strategy. In particular to the references Mr. Freidin
25 gave, page 728, has to deal with the Steel River Crown

1 Management Unit. The strategy on the unit will be to
2 protect both these species, both species referring to
3 balsam fir and white spruce, until harvesting occurs.

4 On this particular management unit the
5 topography is extremely rough, this is one of the
6 management units just on the north shore of Lake
7 Superior. Costs of access and harvesting in these
8 areas is extremely high.

9 In order to make a viable operation
10 within each harvesting block would require the maximum
11 volume within those stands and balsam fir contributes
12 significantly to that. In order to make it a viable
13 operation you need the maximum volume within those
14 stands.

15 The objective in that particular case was
16 that we were going to protect both species and as was
17 discussed earlier talking about the history of the
18 infestation in the Terrace Bay District, which is the
19 Steel Unit which is the unit on the far western edge of
20 the Terrace Bay District, is one that has really only
21 had the infestation for two or three years. As a
22 result, the damage was minimal and we could protect
23 balsam fir and white spruce.

24 On the other management units, the
25 main -- the forest industry that harvests there, the

1 main product which it harvests is saw logs for its saw
2 mills. Balsam fir is not a preferred species and they
3 have alternative wood supplies to balsam fir and, as a
4 result, the white spruce is the main species that is
5 targeted for protection. White spruce holds a higher
6 value and, as a result, is the species which is
7 targeted for protection in that particular case.

8 Q. And on page 729 where it indicated
9 that only the white spruce was going to receive
10 protection, that was on the Big Pic unit, as opposed to
11 the previous page which was the Steel River unit?

12 A. That's correct.

13 Q. And the Big Pic unit then was one of
14 the ones which was involved in the saw log operation as
15 you described?

16 A. That's correct.

17 Q. Now, Mr. Davison, I understand that
18 recommendations were prepared by the district working
19 committee and they were submitted to the regional
20 director for approval; is that correct?

21 A. That's correct.

22 Q. And those recommendations were in the
23 form of a strategy report and associated maps?

24 A. Yes.

25 MR. FREIDIN: And we will find those at

1 page 699 to 735, if one wanted to have reference to it.
2 We are not going to deal with it in detail, Mr.
3 Chairman.

4 Q. Are my page references correct?

5 MR. DAVISON: A. Yes, they are.

6 Q. And that particular recommendation of
7 the district working committee was submitted to the
8 regional director in November of 1986?

9 A. That's correct.

10 Q. Were there any maps associated with
11 that recommendation?

12 A. Yes, there was. There was one large
13 scale -- or one small scale map, 1:250,000 that showed
14 the areas that were planned to be harvested and showed
15 the areas proposed for spraying, and there was also
16 included in the strategy 1:15,840 maps showing the
17 areas that were planned to be sprayed.

18 Q. Do you have a copy of the maps or the
19 map that was used?

20 A. Yes. Do you want me to put it up?

21 Q. Yes, please.

22 MR. FREIDIN: Can we mark that as the
23 next exhibit, Mr. Chairman?

24 THE CHAIRMAN: Exhibit 874.

25 MR. FREIDIN: It is a map of the proposed

1 1987 spruce budworm spray areas, Terrace Bay District.

2 The exhibit again, I'm sorry, Mr.

3 Chairman?

4 THE CHAIRMAN: 874.

5 ---EXHIBIT NO. 874: Map entitled: Proposed 1987
6 Spruce Budworm Spray Areas,
Terrace Bay District.

7 MR. DAVISON: Okay. The district working
8 committees were established in August/September of
9 1986. During the time between that period and
10 November -- early November, 1986, the districts'
11 working committees put together their strategies, as we
12 have talked about the guidelines, following the
13 guidelines.

14 Early part of November, 1986 each of the
15 districts made a presentation to the regional
16 coordinating committee and regional director on their
17 strategies and proposed course of action which it
18 wanted to follow.

19 Terrace Bay District prepared a strategy
20 report and in that strategy report they had this map.
21 The scale of this map is 1:250,000, it's a map of the
22 Terrace Bay District and it shows the areas proposed
23 for spraying, it also shows the areas proposed for
24 harvesting of susceptible or eligible stands.

25 These numbers -- if you look to the

1 overhead now, the overhead really --

2 MR. FREIDIN: Q. And that's part of
3 Exhibit 870, 870D, I believe.

4 MR. DAVISON: A. Just to bring things in
5 perspective as far as the gross area goes, the
6 susceptible stands and proposed treatment, the proposed
7 treatment is what you see on this map here, Exhibit
8 874.

9 The overhead shows -- first of all, in
10 the top bar it shows a gross infestation area and
11 that's just the big, large area that was all coloured
12 in red and yellow on the 1986 defoliation map and that
13 encompasses over a million hectares.

14 The next bar below that is susceptible
15 stands within the infestation area and that is 86,821
16 hectares, and the proposed treatment that Terrace Bay
17 District working committee was recommending to the
18 regional director was that in 1987 they would treat
19 13,773 hectares of which 8,873 was for spraying and
20 4,900 was for harvesting.

21 Q. We now have an overhead which is
22 Exhibit 870E.

23 A. Just by way of comparison, this is
24 for the whole northcentral region now for 1986/87 and
25 you can see the similar percentages really fall through

1 the whole thing. Gross infestation for the whole
2 northcentral region was over 5-million hectares,
3 susceptible stands in the infestation area was 586,000
4 hectares and the proposed treatment in 1987 was almost
5 110,000 hectares of which 88,000 was for spraying and
6 20,900 hectares was for harvesting of eligible areas.

7 MR. FREIDIN: Mr. Chairman, if we are
8 going to have an afternoon break, this would be an
9 appropriate time.

10 We will finish today including I believe
11 the summary to be given by Mr. Kennedy and Mr. Bisschop
12 primarily in relation to the comparison of old versus
13 new, so...

14 THE CHAIRMAN: Okay. You will be ready
15 to go in the morning, Ms. Swenarchuk?

16 MS. SWENARCHUK: (nodding affirmatively)

17 THE CHAIRMAN: The Board wants to
18 announce at this time as well that October 26th, which
19 is a Thursday, the Board will not be able to sit. We
20 are suggesting that we come in the Monday morning of
21 that week, sit Monday afternoon, Tuesday and a full day
22 Wednesday.

23 MR. FREIDIN: We come in which day, I'm
24 sorry?

25 THE CHAIRMAN: Monday. Start at one

1 o'clock and finish off late on Wednesday. And I'm not
2 sure how far ahead our scheduling went with the
3 schedule that we distributed, but we will consider
4 looking at it and updating it, if necessary, up until
5 December 1. When are you going to finish, Mr. Freidin?

6 MR. CASSIDY: The last notice I have, Mr.
7 Chairman, indicates November 2nd.

8 THE CHAIRMAN: Well, we will have to do
9 it for the rest of November and we should be getting an
10 idea from you at some point as to when you are going to
11 finally expire with your case.

12 MR. FREIDIN: Well, the sooner the better
13 from my point of view. I really can't at this time be
14 as confident as I was three or four weeks ago as to
15 when we are going to complete. We've had some downtime
16 but we have got an estimation of cross-examination in
17 the neighbourhood of four to five weeks, and I
18 originally estimated three.

19 We have got Panel 16, we don't know the
20 estimate in terms of the time, but based on the number
21 of interrogatories which were asked I wouldn't be
22 surprised if the cross-examination is going to be
23 longer.

24 I don't think any of my estimates in
25 terms of the time we are going to take in direct are

1 going to change, but it looks like my estimate of
2 cross-examination is going to. So I cannot guarantee
3 when we are going to finish.

4 THE CHAIRMAN: Well, I think we are going
5 to have to make some kind of preliminary estimate soon
6 because we have to make arrangements I think with Dean
7 Baskerville if he is going to try and be plugged in for
8 early December, and if you are not going to finish in
9 an appropriate period of time to have him commence in
10 December, because I suspect he is going to be carrying
11 over into January --

12 MR. FREIDIN: My guess right now is that
13 we will not be in a position for Dean Baskerville to
14 start in December. I will do a little polling, maybe
15 we can do it when we come back or do it now.

16 It is very difficult for people to say
17 how long they are going to be cross-examining on 16 and
18 17 at this stage I would think, but it might give me a
19 little better idea so I can perhaps be a little bit
20 more definitive.

21 THE CHAIRMAN: Well, why don't we hold
22 off that exercise until after the scoping session on 16
23 so we can get an idea at that point with everyone there
24 as to where we might be.

25 MR. FREIDIN: Which is next week?

1 THE CHAIRMAN: Which is next week.

2 MR. FREIDIN: Okay.

3 THE CHAIRMAN: All right. We will break
4 for 20 minutes.

5 ---Recess taken at 3:55 p.m.

6 ---On resuming at 4:30 p.m.

7 THE CHAIRMAN: Thank you. Be seated.

8 MR. FREIDIN: Q. Now, Mr. Davison, the
9 map that we just marked as an exhibit - the number of
10 which escapes me - was that map made available at the
11 information centre?

12 MR. DAVISON: A. That's correct.

13 Q. Mr. Churcher, could you please turn
14 to page 721 of Exhibit 813B.

15 MR. CHURCHER: A. 721?

16 Q. Hold on a second, I think it is
17 probably the wrong page. Let's go to page 729. There
18 is reference on page 729, the last paragraph above the
19 heading Black River unit.

20 A. Yes.

21 Q. So we are talking about the Big Pic
22 unit, it says:

23 "To confirm the infestation forecast for
24 1987, additional L2 surveys will be
25 performed on selected stands."

1 And we have the same reference again
2 under the Table on page 730. Could you advise what an
3 L2 survey is and why they are done?

4 A. That's a survey that's conducted by
5 the Canadian Forestry Service, now known as Forestry
6 Canada. An L2 is reference to the second larval instar
7 of the budworm caterpillar. The caterpillar goes
8 through six stages or instars and this is the second
9 stage of the caterpillar, and it is at this stage that
10 the budworm overwinters or spends the winter.

11 An L2 survey or counting the number of
12 caterpillars in this stage during the wintertime is a
13 more precise estimate of the forecast of what
14 subsequent defoliation would be the following year. So
15 what this is essentially referring to is that more
16 precise estimate or forecast was being asked for from
17 the Canadian Forestry Service.

18 And the egg mass survey that Mr. Davison
19 has talked about before in the forecast map that was
20 shown is conducted in August and that gives a very good
21 preliminary idea, so that the working committees can
22 begin their planning process, but when more detailed
23 site-specific information is required, then we rely on
24 this L2 survey.

25 Q. And what month are those L2 surveys

1 usually done in?

2 A. The field work is usually done in
3 November, sometimes early December, but the follow-up
4 lab analysis usually is not completed until -- well,
5 during December, hopefully completed by Christmastime.

6 Q. Okay. And, Dr. Davison, can you
7 advise whether the L2 surveys which were suggested on
8 page 729 and 730 were actually done?

9 MR. DAVISON: A. Yes, they were done.

10 Q. Can you advise whether the forecast
11 that you made in August or September of 1986 regarding
12 the level of infestation to be expected in 1987 was
13 affected by the results of those L2 surveys?

14 A. Yes, they were. If I could have the
15 Board turn to page 739 of Exhibit 813B. The title of
16 this page says: Spruce Budworm Overwintering, L2
17 Results For Terrace Bay District.

18 What this table shows is the L2 survey
19 results of the survey that was done in December. The
20 Terrace Bay District identified earlier the areas they
21 were proposing to spray in 1987, that was when we
22 produced our strategy report which was done in
23 November, made a recommendation that we would like as
24 good information as possible before we actually went
25 ahead and carried out the spray program, recommended

1 that L2 surveys be done in the areas that were proposed
2 to be sprayed.

3 What you have here is you have -- as you
4 can see on the far right-hand column, it says
5 Infestation Forecast for '87, the L is low or light,
6 light infestation forecast; the M is moderate, and as
7 you can see there is no S or no severe. As a result of
8 this survey we then re-examined the areas that we were
9 proposing for spraying in 1987.

10 Q. Did that cause the forecast that you
11 made in September of '86 to go up or down in terms of
12 the level of infestation that would require attention
13 in 1987?

14 A. What appeared to be happening was on
15 the eastern edge of the Terrace Bay District - the
16 Black River Forest and the Big Pic Management Unit are
17 two management units on the eastern edge - the
18 population of spruce budworm was starting to collapse,
19 and this was indicated very well and very clear by the
20 L2 survey results.

21 So as a result of the L2 survey results
22 the proposed spraying program that was proposed for the
23 Big Pic and the Black River Forest were subsequently
24 dropped. As a result 3,194 hectares was removed from
25 the proposed spray program for 1987.

1 Q. Were there any changes to the planned
2 spray areas for reasons other than a changed forecast
3 as a result of L2 surveys?

4 A. Yes, there was. In addition to
5 changes just discussed as a result of the L2 surveys,
6 the Ministry and the company examined the proposed
7 harvesting areas on the Steel River unit and took a
8 real close look at the areas that were proposed to be
9 harvested within 10 years.

10 As mentioned earlier, the Steel unit is
11 one that's extremely rough, extremely rough topography,
12 as a result of that very costly to build any roads.
13 After carefully examining the areas that we were
14 initially proposing to spray, and that was to hold them
15 until harvesting could occur there, that the costs of
16 building that road and some of that topography just did
17 not warrant the timber that was there.

18 There is exceptional situations where
19 this occurs and Terrace Bay, being the northshore of
20 Lake Superior here, is one of those exceptions. It's
21 extremely costly and cost-prohibitive in some cases.
22 So we took a closer look and at that time recommended
23 that we were going to drop a thousand hectares from the
24 proposed spray program.

25 Q. And were the areas to be sprayed

1 after the reduction occurred mapped?

2 A. Yes, they were, and if we could show
3 the map.

4 Q. Okay.

5 MR. FREIDIN: Perhaps we could mark this
6 as the next exhibit, Mr. Chairman. It is a map
7 entitled: Spruce Budworm Spraying Program, 1987
8 Proposal, Terrace Bay District.

9 THE CHAIRMAN: Exhibit 875.

10 ---EXHIBIT NO. 875: Map entitled: Spruce Budworm
11 Spraying Program, 1987 Proposal,
Terrace Bay District.

12 MR. DAVISON: If I can just refer back to
13 the overhead for just a minute, we are still in the
14 first three- to four-month period leading up to the
15 information centre. We went through the stage and
16 developed a strategy, that was presented to the
17 regional director in November. After that time we had
18 L2 survey results and we had the change as a result of
19 re-examining where proposed harvesting could occur.
20 This all happened in December.

21 So the areas were finalized where the
22 proposed spray would occur in early January and this
23 map, Exhibit 875, shows the areas now that's proposed
24 for spraying in 1987.

25 At this particular time a district

1 project description was also prepared and a draft copy
2 of that district project description was forwarded to
3 the region for their review prior to the information
4 centre.

5 MR. FREIDIN: Q. How would this map,
6 Exhibit 875, then compare to Exhibit 874 which was the
7 earlier map that you outlined the areas in red that
8 were going to be subject to spray?

9 MR. DAVISON: A. Well, this would show
10 then the changes that were made in December. So the
11 area now is less than the area identified in the
12 previous exhibit.

13 Q. Would the updated map have been made
14 available at the information centre?

15 A. That's correct. The map that I --
16 Exhibit 875 would be shown there, along with the other
17 strategy report and I will be talking more about the
18 information centre, how we discussed those changes.

19 Q. Okay. A few questions about the
20 information centre, Mr. Davison. Was notice given in
21 relation to the information centre for the spruce
22 budworm program for your Terrace Bay District?

23 A. Yes, it was. If I can have the Board
24 turn to pages 753 and 754, and actually the letter is
25 on 752.

1 There was two forms of notice. The first
2 was a letter that was sent to affected parties, known
3 affected parties that -- and this list include local
4 trappers and tourist outfitters and native Indian Band,
5 MTR, MOE, the forest industry and several others that
6 are on the mailing list on 753 and 754.

7 Q. I just note that on page 753 the
8 Federation of Ontario Naturalists office in Don Mills
9 received a copy of the notice?

10 A. That's correct.

11 Q. As did the Northern Ontario Tourist
12 Outfitters in North Bay, in the bottom right-hand
13 column on page 753?

14 A. Yes.

15 Q. That's their main office; is that
16 correct?

17 A. Yes.

18 Q. And on page 754, the Ontario
19 Federation of Anglers & Hunters received a copy of the
20 same notice at their head office in Peterborough?

21 A. Yes.

22 Q. I'm sorry, did you indicate whether
23 there was any media notice as well as notice by direct
24 mail?

25 A. Yes, there was also paid public

1 advertisements in the local papers of Manitouwadge,
2 Marathon, Terrace Bay, Schreiber, Geraldton and Thunder
3 Bay and an example of that advertisement is found on
4 755 and 756.

5 Q. You have indicated as we have gone
6 along whether certain maps were available at the
7 information centre. Does the documentation in Exhibit
8 813B provide a list of documents which were -- all the
9 documents which were available at the information
10 centre?

11 A. Yes, it does, on page 757.

12 MR. FREIDIN: Just one moment, Mr.
13 Chairman.

14 The second item is entitled: Generic
15 Information Package and it indicates that there are
16 five different documents included.

17 Mr. Chairman, I would like to file as the
18 next exhibit the generic information package which was
19 made available at the information centre.

20 THE CHAIRMAN: Exhibit 876.

21 MR. FREIDIN: (handed)

22 THE CHAIRMAN: Thank you.

23 ---EXHIBIT NO. 876: Generic information package.

24 MR. FREIDIN: Save one more for me, Mr.
25 Waito.

1 Q. Could you briefly describe to the
2 Board what is contained in this generic information
3 package and why it was made available?

4 MR. DAVISON: A. Yes. What we had found
5 with our -- just from experience with information
6 centres is it's helpful to the people coming in, the
7 public, if you can give them something that explains in
8 summary form of really what they are there to see and
9 comment on.

10 We prepared this package and this
11 package, the first part -- first is a fact sheet and
12 just briefly outlines what the proposed strategy that
13 Terrace Bay is proposing. Underneath that fact sheet
14 is a map that just outlines generally the areas that
15 are proposed for spray treatment, 1987, and also
16 included is a comment sheet, and then there is two fact
17 sheets also included to answer any -- maybe any general
18 questions the public may have regarding pesticides and
19 particularly BT.

20 The last part of the package is a tabloid
21 that was prepared provincially. You notice it's dated
22 January, 1987 entitled: Focus on our Forests,
23 Ontario's Insect Pests, not only deals with spruce
24 budworm but also jack pine budworm and gypsy moth, and
25 it just gives an overview of the provincial strategy

1 when it comes to these insects and helpful to the
2 public in understanding how Terrace Bay fits into the
3 provincial picture.

4 Q. And could you advise how in your
5 experience information centres for protection
6 operations are run, Mr. Davison?

7 A. Yes, I will. My experience is
8 limited to the northcentral region, but I will explain
9 from my background how they are held.

10 Usually they are set up in a district
11 office boardroom or, on occasion, they may also be held
12 at separate locations of schools and legions. They are
13 usually held for one day, although there is on occasion
14 that they may be held for more than one day; for
15 example, in 1987 the information centres were held for
16 two days.

17 The district budworm coordinator will be
18 in attendance, full-time attendance and the district
19 manager may as well be there. The responsibility of
20 the district budworm coordinator will be to ensure each
21 visitor receives an information package, signs the
22 guest list and is personally walked around through the
23 exhibits.

24 Along with the information in the general
25 package, in 1986 main office prepared a generic or

1 general display to explain how protection operation
2 fits into timber management of access, harvest, renewal
3 and maintenance and this was in the form of a display
4 set up with pictures and an explanation of all those
5 activities so the public could understand how it fits
6 into the whole timber management.

7 Also, the MNR representatives would also
8 make very clear that the public review period is 30
9 days and that comments can be sent into the district
10 manager during that period of time.

11 Q. How many people showed up at the
12 Terrace Bay information centre?

13 A. Seven. There was two local trappers
14 that showed up and five forestry -- forest industry
15 representatives.

16 Q. Mr. Churcher -- before I go to you,
17 Mr. Churcher. Mr. Davison, were chemical insecticides
18 an option discussed or considered during the planning
19 of the 86/87 program?

20 A. Yes, they were. As a member on the
21 provincial committee as Regional Budworm Coordinator,
22 it was an option that was available to be considered
23 during the strategy development process.

24 Q. Do we have reference to that anywhere
25 in the documentation that's been filed?

1 A. There's reference on page 738 where
2 the district manager in Terrace Bay at the district
3 working committee meeting made clear that, yes,
4 chemical insecticides will -- should be considered
5 during the strategy development process.

6 Q. And you are making reference to the
7 first two bullet points under the heading No. 6,
8 General on page 738?

9 A. That's correct.

10 Q. Okay. Mr. Churcher, I understand
11 that in preparation for this panel you have obtained
12 information regarding the use of chemical insecticides
13 as an option in addition to information that you were
14 aware of when you gave your evidence in Panel 13; am I
15 correct?

16 MR. CHURCHER: A. Yes, that's correct.

17 Q. And, as a result of that new
18 information, you would like to perhaps comment on the
19 effect that that new information has on the evidence
20 you gave in Panel 13?

21 A. You may recall, Mr. Chairman, in
22 Panel 13 we had lengthy discussions about the options
23 of chemical versus biological insecticides. At that
24 time I indicated that in preparation for the 1986
25 program, and that was the last time that a working

1 committee had proposed the use of chemicals, and that
2 once again, prior to the 1986 program, the Minister had
3 made a decision to use only BT.

4 I believe I had indicated that that was
5 the last time that the proposal was made and that, in
6 fact, the news release which I believe was dated
7 February, 1986 was the last news release that had been
8 issued on this particular subject.

9 And, as Mr. Freidin has indicated, while
10 Mr. Davison and I were working on preparation of this
11 panel we came across a subsequent news release and also
12 while looking at proposals from other districts,
13 specifically the Nipigon District proposal, they had
14 suggested or proposed the use of a chemical insecticide
15 on a portion of Nipigon District.

16 That proposal was presented to the
17 regional director in November of 1986 and was accepted
18 by the regional director. Approximately one week later
19 on November the 13th the Minister -- the Ministry had a
20 news release, the Minister made an announcement that
21 once again in 1987 only BT would be used, so the
22 Nipigon District had to go back and change their plans.

23 But the point being that I may have left
24 the wrong impression, or from the information I could
25 recall at the time in Panel 13 my memory obviously is

1 not as good as I thought it was and that there was a
2 subsequent proposal and there was also a subsequent
3 news release.

4 There is reference on page 738 of
5 discussions of chemical insecticides being contemplated
6 at a district working committee, Book 4 of the seven
7 books, Exhibit - I forget -- I don't recall the exhibit
8 number now, but Book 4 contains the project proposal
9 from Nipigon District that discusses the use of
10 chemical insecticides, Black Bay -- or Black Bay
11 Peninsula, and the news release dated November 13th as
12 well as a number of transcripts from radio interviews
13 with the Minister around that time, as well as
14 newspaper articles are included in Book 3 of that same
15 exhibit. I don't want to reopen a can of worms, I just
16 wanted to clarify that.

17 Q. Thank you, Mr. Churcher.

18 Q. Mr. Davison, did Terrace Bay receive
19 any comments from the public during the public review
20 period?

21 MR. DAVISON: A. Yes, we did. We
22 received two written requests for information and the
23 two individuals who requested information were on the
24 district, or on the district mailing list but could not
25 attend the information centre.

1 The first was a tourist outfitter that
2 requested information on buffer zones and proximity to
3 his camps and the MNR's reply indicated that the
4 closest spray area which was proposed was 2.5
5 kilometres away.

6 The second request for information had to
7 do with costs and benefits relating to the spruce
8 budworm control program and, again, the MNR's reply
9 indicated the actual '86 spray costs and the general
10 benefits we saw from the program.

11 MR. LINDGREN: Excuse me, Mr. Freidin,
12 perhaps Mr. Davison can indicate where the Ministry's
13 responses to those letters are found? Have they been
14 filed?

15 MR. DAVISON: If you give me a minute, I
16 will find them.

17 MR. FREIDIN: Sure.

18 MR. DAVISON: They are located in Book 6,
19 pages 168 and 169.

20 MR. LINDGREN: Excuse me, I believe those
21 are the actual requests that you have received from Mr.
22 Smart and Mr. Harkness. I am asking about the MNR
23 responses to those letters.

24 THE CHAIRMAN: Well, if you can't find
25 them easily--

1 MR. DAVISON: No, they are right here.

2 THE CHAIRMAN: --Mr. Davison, perhaps you
3 could do that at a later time.

4 MR. DAVISON: 169, 170, 171. They are
5 all within the next ten pages following that. They are
6 all included within ten pages or so after those
7 requests.

8 MR. LINDGREN: Thank you.

9 MR. FREIDIN: Q. I understand that the
10 district project description was approved by the
11 district manager on March the 10th, 1987?

12 MR. DAVISON: A. That's correct.

13 Q. Did you comply with the notice
14 provisions to the Ministry of the Environment as
15 described by Mr. Churcher?

16 A. Yes, we did.

17 MR. FREIDIN: I don't intend to take the
18 time to go through that.

19 Q. Public notice prior to operations.
20 Did you in fact issue public notices in 1987 prior to
21 the actual operations?

22 A. Yes, we did. We issued a 30-day and
23 a 7-day notice. We put the notices in local newspapers
24 and in the Terrace Bay/Schreiber paper, Geraldton
25 paper, Manitouwadge, Thunder Bay, Marathon. Examples

1 of those notices can be found on pages 761 and 762.

2 And, in addition to those notices, we
3 also sent direct written notices as well to the persons
4 that were known to be affected.

5 Q. Just a couple of questions to finish
6 this part of the evidence, Document No. 7. Mr.
7 Davison, how long did the activities which were planned
8 and approved in the Terrace Bay District actually take
9 to implement?

10 A. Four days.

11 Q. Mr. Churcher, what is the spray
12 window for spruce budworm in the northcentral region?

13 MR. CHURCHER: A. Traditionally it's the
14 last week in May and the first couple of weeks in June,
15 roughly three weeks or 21 days.

16 Q. And, Mr. Davison, are you able to
17 approximate the number of days within that period that
18 spraying was actually -- or aerial application of
19 insecticide was actually taking place somewhere in the
20 region?

21 MR. DAVISON: A. My best approximation
22 would be about ten days long -- ten days.

23 Q. Thank you, Mr. Davison, and, Mr.
24 Churcher.

25 MR. FREIDIN: That leaves only really one

1 matter outstanding, Mr. Chairman, and that is to deal
2 with the summary of the old versus the new timber
3 management planning requirement.

4 And what I would like to do is to file as
5 the next exhibit a document entitled: Timber Management
6 Planning, Old versus New, Simplified Comparison.
7 (handed)

8 THE CHAIRMAN: Presumably the document
9 will bear out the title? Exhibit 877.

10 MR. FREIDIN: (handed)

11 THE CHAIRMAN: Thank you.

12 ---EXHIBIT NO. 877: Document entitled: Timber
13 Management Planning, Old versus
New, Simplified Comparison.

14 MR. FREIDIN: What is that exhibit
15 number, Mr. Chairman?

16 THE CHAIRMAN: 877.

17 MR. FREIDIN: Thank you.

18 THE CHAIRMAN: Mr. Freidin, we are just
19 discussing how you plan to deal with this. Do you plan
20 to deal with this by having a witness take us through
21 it page by page, item by item and, if that is the case,
22 perhaps it would be a more efficient use of time if we
23 took it away and read it and then came back and, if
24 there were any areas that needed clarification, we
25 could deal with it on that basis.

1 Because, just glancing through it, there
2 appear to be a number of points supposedly in
3 accordance with the title of the document, it's
4 simplified; and, therefore, we should understand what
5 the comparison is all about, and perhaps if we have
6 some major concerns we can deal with it that way,
7 rather than go through it line by line, page by page.

8 MR. FREIDIN: Well, before we do that, if
9 that is what the Board wishes to do, it might be
10 appropriate for Mr. Kennedy to describe generally what
11 the document is, what is meant by old and what is meant
12 by new, why the reference to simplified comparison and
13 that sort of thing to perhaps just give you a little
14 bit of an idea of what you are going to be looking at
15 and it might assist you in terms of understanding what
16 you find.

17 THE CHAIRMAN: Okay. Mr. Kennedy, can
18 you do that without reading the document word by word?

19 MR. KENNEDY: Yes, I believe I can.
20 First of all, I should indicate to you, Mr. Chairman,
21 that this document has been prepared to reflect old
22 versus new for all of the evidence given by Panel 15.
23 So, as such, it addresses the evidence that is given by
24 each one of the panel members, goes beyond that that
25 was talked about in documents 1 and 2 in the

1 preparation of the timber management plan, and includes
2 the subjects of annual work schedules, protection
3 operations, access planning, and in here we have
4 included some specific information as a follow-up to
5 your request where you had asked for a comparison
6 between this Class EA and the other Class EA, which
7 being the Class EA for access to MNR facilities.

8 It's been prepared, Mr. Bisschop and I
9 had intended to speak to it. The reason that it is a
10 simplified comparison is so that we do not get into a
11 great level of detail. I would suggest that it would
12 take less than an hour to address it.

13 I think there are some additional
14 comments that we have that would assist in the
15 interpretation of the information, but the simplified
16 comparison I would like to put out a caution on that in
17 that we have attempted to capture on the left-hand side
18 of the pages under the heading 'new' some of the
19 highlights that we have noted in the current planning
20 process, as again throughout all of the evidence given
21 by Panel 15.

22 In the right-hand column, I would suggest
23 that you may have some difficulty following the content
24 in the right-hand column that deals with 'old'. The
25 reason for that is that it deals with manuals that I

1 believe have not been presented in any detail before
2 the Board and we had thought that through the oral
3 evidence that we may be able to highlight and answer
4 questions which you may have relative to the kind of
5 specifics in those manuals.

6 THE CHAIRMAN: All right. But in
7 evaluating the application before us, is it absolutely
8 imperative that we understand every element of what is
9 not before us for approval but what was in existence
10 previously?

11 We understand that there is a value in
12 ascertaining what many of the changes were in terms of
13 whether or not those changes can be viewed as
14 improvements over the existing system or not, but
15 surely we don't want to put ourselves into the position
16 of, effectively, having to evaluate two separate
17 planning processes; one of which is no longer going to
18 be used and one of which is up for approval.

19 So when you allude to the fact that many
20 documents from the old planning process are probably
21 not before us, so what?

22 MR. KENNEDY: I agree with your comments,
23 so what, Mr. Chairman. We were attempting to respond
24 to what we had perceived as a request by individuals of
25 interest in those areas, but quite clearly what is most

1 important before you today is the new process and we
2 believe that we have gone to sufficient detail in this
3 Panel 15 to provide you the details relative to that
4 new process.

5 We do record comments relative to the old
6 process to show where we have made significant
7 improvements and to highlight some of the changes for
8 those people that are following the hearings and may be
9 familiar with the old-style planning, looking to see
10 what kind of improvements MNR has done on the basis of
11 their experience.

12 In that regard, if I could just mention
13 that in relation to old then, for the majority of the
14 information, the reference would be to those planning
15 manuals and those requirements that are in place --
16 excuse me, prior to 1986. In the case of the
17 protection operations, old would be those operations
18 that are in place prior to 1985 and, in the case of
19 roads, it's intended to be a comparison prior to 1986
20 and is a little bit clouded because of the series of
21 exemption orders which had separate requirements.

22 MR. FREIDIN: Q. Are those --

23 MR. KENNEDY: A. I think perhaps I would
24 like to make one comment then, if you would prefer not
25 to hear orally some of the details, and that would be

1 in relation to some of the protection operations to
2 explain for the difference in the dates.

3 Q. Where do we find that, I guess --

4 MR. FREIDIN: The pages aren't numbered,
5 Mr. Chairman. It might be useful if we perhaps took
6 the time right now to perhaps number these pages, and
7 perhaps we could start with page 1 being the first
8 page -- the second page actually, Timber Management
9 Planning which has the new and the old column?

10 MR. KENNEDY: Shall we stay with the A,
11 B, C as we have in other exhibits?

12 MR. FREIDIN: Well, I think --

13 MR. CAMPBELL: Mr. Kennedy has obviously
14 done what I have done, which is numbered his in the
15 usual way while looking at it.

16 THE CHAIRMAN: Okay. So why don't we
17 start with page 1 being headed Timber Management
18 Planning, or do you want to start with page 1 for the
19 cover. For those who have already numbered them, we'll
20 start from the cover, page 1.

21 MR. FREIDIN: Sure.

22 THE CHAIRMAN: So it makes 16 in all?

23 MR. FREIDIN: That is what I have, Mr.
24 Chairman.

25 Q. Do you have any other comment of a

1 general nature that you would like to make, Mr.
2 Kennedy, before I respond to the Chairman's suggestion?

3 MR. KENNEDY: A. Yes. I would like to
4 ensure I have a chance to get a few words in on the
5 protection planning in relation to page 11, and that is
6 to explain to you the reason for old in this case.

7 THE CHAIRMAN: I have that as page 12.

8 MR. KENNEDY: I thought I would do that.
9 Page 12? .

10 THE CHAIRMAN: Page 12.

11 MR. KENNEDY: My apologies. That is to
12 indicate that MNR had a need to address serious pest
13 infestation in the period 1984-85 and, as a result, had
14 revised many of its procedures and bulletins to deal
15 with the pest situations, and the result of doing that
16 was to have pulled together a protection planning
17 process. Concurrently at that time the initiatives
18 were underway within MNR to complete the EA commitments
19 in 1985. As a result the 1985 EA and, in turn, the
20 June amended -- June, '87 amended version all reflect
21 the development of that thinking.

22 So there was no point in comparing the
23 protection operations to 1986 as they did reflect the
24 new process. So we have moved it back one year to 1985
25 to indicate the kind of protection planning that went

1 on prior to that latest development and that is the
2 explanation for the difference in date.

3 MR. FREIDIN: We have another document
4 that we could perhaps -- just hold on a second, Mr.
5 Chairman.

6 I'm sorry, I thought there was another
7 document. It's already incorporated into this exhibit,
8 Exhibit 877.

9 Q. Anything else, Mr. Kennedy, by way of
10 general comments to assist people in understanding what
11 they are looking at?

12 MR. KENNEDY: A. I think perhaps the
13 only other comment I would make is that prior to 1986
14 when Natural Resources had two planning manuals, as the
15 Chairman has heard in evidence before, one for Crown
16 and company units and one for FMA units, at that time
17 the second manual that had come out for forest
18 management agreement planning had caused MNR to do a
19 review of our planning direction and caused us to
20 update our planning direction and to include some new
21 thinking.

22 That information was contained in the
23 forest management manual which was the manual that FMAs
24 did their planning under. We were able to use that
25 manual as a starting place and build on many of the

1 good initiatives that were contained in there when we
2 prepared the Timber Management Planning Manual in 1986.

3 So when you look at the old column you
4 will see that in many cases there is a general
5 discussion and then there is often comments specific to
6 FMAs and that reflects the difference between the two
7 manuals that were in place prior to '86.

8 I believe those are all of the comments.

9 MR. FREIDIN: Mr. Chairman, do I
10 understand then that what you would like to do is
11 adjourn for the day and then have Mr. Kennedy and Mr.
12 Bisschop and I consider how we deal with your
13 particular -- your concern that we don't go through
14 this one at a time and then, hopefully by going through
15 this document after we adjourn, that that will give
16 people an opportunity to perhaps - particularly the
17 Board - to formulate questions that it may want
18 clarified as a result of reviewing the documentation in
19 advance of actually hearing any oral evidence at all?

20 THE CHAIRMAN: Yes.

21 MR. FREIDIN: Okay.

22 THE CHAIRMAN: We will deal with that
23 first thing in the morning.

24 MR. FREIDIN: All right. And I think --
25 well, we won't be long in completing our evidence

1 tomorrow morning, so we will...

2 THE CHAIRMAN: So that will end the
3 direct; is that correct?

4 MR. FREIDIN: That will end the direct.
5 I think, as Mr. Kennedy indicated, if in fact we were
6 going to deal with it in the manner that we thought we
7 would, we would be about an hour.

8 So perhaps by what we are doing now we
9 will be able to reduce that, but that is an hour at the
10 outside, I think what it will take us to finish the
11 evidence-in-chief for this panel.

12 THE CHAIRMAN: Okay.

13 MR. CAMPBELL: Mr. Chairman, just before
14 we break for the day, I would just like some
15 clarification from Mr. Freidin if this is the extent of
16 the old versus new comparison that was contemplated.

17 I had generally understood when this
18 question came up that if it was going to be addressed
19 it was more in the sense of having had the advantage of
20 seeing various planning processes applied in very
21 specific cases, that we would get some indication as to
22 what would be different if they had been prepared under
23 the timber management planning manual.

24 As Mr. Freidin and his witnesses have
25 been quite clear about, for instance, that wasn't the

1 case with the Red Lake Plan, as I understand it,
2 although there were certain -- at the very last minute
3 there were certain tables in it that were required to
4 be prepared and revised and re-prepared according to
5 the new manual. But I had understood that to be more
6 the nature of the Board's question than simply a
7 process-oriented description, rather than one that
8 related to the specifics of the examples that have been
9 used throughout the evidence.

10 And I just was sort of curious as to
11 whether I misunderstood that entirely. I would have
12 thought that might be a little more useful.

13 THE CHAIRMAN: Well, there would probably
14 be some use in referring it back to the examples, but
15 surely the examples used don't contemplate all
16 situations or all alternatives, et cetera, so you
17 really need, Mr. Campbell, a comparison of the process
18 so as to cover any type of timber management plan on
19 any unit as to what the process requirements would be
20 now as different from the past.

21 MR. CAMPBELL: Well, that's right, and
22 that is what I am a little unclear about, as to whether
23 the examples that have been given are given as examples
24 of the way that things would be done now, or are they
25 given as: Here's how we did it, but we have now this

1 new manual in place and don't think that that is the
2 way it would be done now.

3 I am not quite clear on that, to be
4 honest.

5 MR. FREIDIN: I can respond to that, Mr.
6 Chairman. We intend to in fact clarify the very matter
7 that Mr. Campbell is raising, we will do that tomorrow.

8 Q. But, Mr. Kennedy, is there anything
9 that you wish to say now, or do you wish to leave that
10 particular matter of clarification until tomorrow's
11 evidence?

12 MR. KENNEDY: A. We may wish to go into
13 that in some brief detail tomorrow, but I would add
14 that we have endeavored to put forward to the Board the
15 current planning process. We have used the Red Lake
16 Plan as an example of the application of that process
17 and we feel very -- we felt it was very important to
18 talk of the planning process as a whole as it is
19 currently laid out with all the revisions that have
20 occurred since it's inception, and that it's important
21 to note that the Red Lake Plan, where we could, we used
22 it to demonstrate the application process. We then
23 brought in other examples such as values maps from the
24 Timmins Forest to use where there was not an example in
25 the Red Lake Plan.

1 I think that there would be very marginal
2 benefit, if any, in searching for examples through
3 plans that were in place that would have been written,
4 I would suggest, as much as 10 years ago, 20 years ago
5 in order to demonstrate the change and I think...

6 THE CHAIRMAN: So the Red Lake Plan
7 represents, in effect, your best example given the
8 timing of that plan vis-a-vis the application of the
9 new process?

10 MR. KENNEDY: I certainly would not use
11 the word best, Mr. Chairman. It certainly is a
12 representative plan--

13 THE CHAIRMAN: Representative, okay.

14 MR. KENNEDY: --of the kind of
15 application of the process that we expect to occur.
16 There is still room for improvement in the Red Lake
17 Plan and we will be making, or we have made reference
18 to that earlier and we would continue to do so if we
19 were to go into the comparison between old and new.

20 MR. FREIDIN: Okay.

21 THE CHAIRMAN: The panel, if you wish to
22 step down may do so for the Board wants to have a
23 discussion with everybody on the record about the
24 hearing and the length of time that the hearing is
25 taking.

1 We have been through this exercise
2 several times and have attempted to institute
3 procedures to try and expedite things and I am not sure
4 how successful we have been.

5 We are now approaching, by the time -- if
6 your estimate is right, Mr. Freidin and we don't
7 complete the Ministry's case until 1990 after the end
8 of the year -- it will be almost two years from January
9 of '88 when we started with the preliminary meetings
10 and it will have taken approximately 22 months or so to
11 put in the Ministry's case.

12 Now, granted there was some downtime
13 included in that figure, but that is 22 months to put
14 in one side of the case and we have the other side to
15 go; we have 13 other locations around the province to
16 visit, and we have argument at the end of the case, and
17 we are really wondering where this is all going in
18 terms of the ultimate and total time to be occupied.

19 We started off with this process
20 estimating that the hearing -- and I heard ridiculous
21 figures, if I recall, at the beginning that it might
22 take a year, and that was quickly revised to 18 months,
23 and now it looks like, if our estimates are correct,
24 that we could be well over three years at the hearing
25 stage from when we commenced. And then, of course,

1 there will have to be a certain amount of time, perhaps
2 ten days or so, for us to write the decision.

3 Now, we keep saying to ourselves when the
4 Board meets privately: What can we do to speed things
5 up, how are we going to force the parties to be
6 reasonable in structuring their cases to include only
7 the evidence that they feel is relevant for the Board
8 to consider in order to arrive at an informed decision
9 on this application?

10 We are not singling out any party in
11 particular because we certainly haven't seen the other
12 side of the case from any of the opposition parties; we
13 have seen the Ministry's side and we have seen some of
14 the cross-examinations, and we realize that there is a
15 lot of material to cover.

16 By way of an aside, I had a chat not too
17 long ago - several months ago I guess - with a
18 colleague from the U.K., Sir Frank Layfield, who
19 chaired the Sizewell "B" Inquiry in the U.K. which, at
20 that time, was reputed to be one of the longest
21 inquiries. It went some two years and it was on the
22 Sizewell "B" Nuclear Power Station. It was the first
23 nuclear station that had undergone an EA-type public
24 inquiry. And I can assure you that some of the issues
25 covered in that case were of a nature that one would

1 suspect would occupy a fairly lengthy period of time.

2 This case, with the exception perhaps of
3 the Fahlgren Inquiry, which resulted in a report in
4 format as opposed to a decision, is fast turning out to
5 be one of the lengthiest public hearings that this
6 country has ever staged, let alone Ontario, and we are
7 still trying to come to grips with how we can speed up
8 the process.

9 We unfortunately, as a Board, in this
10 particular case do not have all of the normal
11 assistance that might be at our disposal; I refer
12 specifically to the power to award or deny costs. As
13 experienced counsel well know, that is a matter that
14 sometimes encourages the parties to restructure their
15 case in a manner which is in accord with the public
16 interest, and there is a public interest in this case
17 to allow the Board to arrive at an informed decision in
18 a manner, which I would suggest, will not take in
19 excess of three years.

20 We are holding this hearing in northern
21 Ontario, we made that decision at the outset of the
22 case after canvassing the views of parties at some
23 eight hearing locations during the preliminaries and,
24 in making that decision, the cost - because many of the
25 participants are from other areas of the province - are

1 substantial and they are escalating, and yet the end
2 result in the public interest is consideration of a
3 planning process which will probably govern the
4 activities in the boreal forest for the next number of
5 years. Having said that, we have to have counsels'
6 cooperation in trying to arrive at a manner and method
7 in order to expedite this hearing.

8 Now, the Board has from time to time
9 suggested that it might attempt to impose time limits
10 on oral examination, it has contemplated it for
11 cross-examination and it has refrained, up to this
12 point, from doing so; instead it sought to institute
13 the scoping procedures in effect placing an increased
14 burden on the Board members to read the material in
15 advance in the hope that the oral evidence given at the
16 hearing would be substantially shortened.

17 That we feel has not necessarily
18 occurred. We think the scoping procedures have in fact
19 accomplished some good; they have focused the minds of
20 both the Board and the parties on the various issues
21 and they have forced the parties into reading the
22 material ahead of time so that it is not altogether
23 unfamiliar at the time that it's introduced into
24 evidence but, as far as shortening the proceedings, the
25 Board is not at all convinced that we have made much

1 headway.

2 We are going to ask counsel for the
3 various parties - and these are the full-time parties -
4 to caucus amongst themselves and try voluntarily to
5 consider ways in which the proceedings from this point
6 on might be expedited and we would like to have your
7 serious consideration as to what measures can be agreed
8 upon and perhaps adopted. If we get nowhere with that
9 voluntary approach, then the Board has reached the
10 stage where it will now impose some kind of measures
11 designed to shorten this proceeding.

12 And if the measures the Board decides to
13 impose, if nothing else works, are perceived by the
14 parties to necessitate a challenge to another forum,
15 then the Board will be prepared to proceed and await
16 confirmation of what it has done from those empowered
17 to comment upon our course of action, because we feel
18 that the time we are spending is unreasonable and is
19 not necessarily going to contribute to a better
20 decision.

21 Now, we will point out one thing, Mr.
22 Freidin, since you have been the most recent
23 transgressor, and; that is, we indicated in the scoping
24 session that we didn't feel it was necessary to spend a
25 lot of time with respect to - and this is with no

1 disrespect, Mr. Davison - Mr. Davison's paper simply
2 because it was an example of what occurred in a
3 particular unit for which we had read the material
4 prior to the scoping session and we felt it was
5 relatively adequately explained in the written
6 material.

7 We go to a great deal of trouble to spend
8 the time reading the material, and we are doing that in
9 an effort to cut down some of the time spent in oral
10 evidence, and it doesn't make much sense to us to stay
11 up the hours we stay up to read this material only to
12 spend the time going into a fair amount of detail over
13 the same material at the hearing. And, as we said
14 before, we are not sure that we have to have the
15 evidence presented to us in two forms, both orally and
16 in writing.

17 When it comes time for the
18 cross-examinations, we again ask everybody to be
19 reasonable and to focus upon those issues for which
20 there is disagreement and to which you are opposed in
21 interest, rather than reviewing in detail what has
22 already come out in direct and, of course, the parties
23 in opposition will have a chance to present their own
24 evidence through their own witnesses.

25 In any event, what the Board is asking of

1 all counsel is to get together and seriously attempt to
2 come up with ways to expedite this proceeding because,
3 if you fail, the Board is going to do something which
4 we are sure not everyone will necessarily agree with,
5 however we feel we must do something at this point; we
6 cannot allow this proceeding to continue into its third
7 year with no resolution.

8 And this is the result if you conduct a
9 realistic appraisal of what is yet to come, based on
10 the estimates given earlier by some of the various
11 parties, and may not take into account all of the time
12 we are going to be spending at the 13 remaining
13 satellite locations. We went to Dryden, as you know,
14 last week and spent a couple of days and, I can't
15 remember the exact number, maybe a dozen persons
16 addressed the Board -- Mr. Martel indicates it was 17.

17 When we get to some of the other
18 locations we may be spending more time with some of the
19 parties that have not yet really taken part as
20 full-time parties. We know we are going to spend some
21 time in North Bay we believe with Northwatch, and we
22 know that we are going to spend some time at some of
23 the other locations with various parties that have
24 indicated to the Hearing Liaison Officer that they want
25 to take part at a specific location. We will have to

1 add that time on to the hearing and we will have to add
2 on, in many of those situations, travel time as well;
3 in other words, we will be losing a week at least for
4 each location, even if it's only a two-day session.

5 Now, we would like, as a first step in
6 your deliberations - which, by the way we will deal
7 with next Tuesday at 1:00 when we start just before the
8 scoping session - we would like as a first step a
9 guarantee from the parties that we are going to finish
10 the Ministry's case by early December, because we still
11 have Dean Baskerville to fit in. If you recall, we had
12 been talking just a few weeks ago with counsel for the
13 industry where they requested that we don't force them
14 to start their case until January 9th due to some
15 scheduling problems with their various witnesses.

16 Well, what we are hearing today is that
17 the Ministry may not finish until January 9th, or
18 thereabouts; then Dean Baskerville comes at the end of
19 the Ministry's case, if in fact he is available at that
20 particular time - and that we are not sure at this
21 point either - and we have no idea and we won't, I
22 suppose, until we have seen some witness statements as
23 to how long he might be expected to be testifying. And
24 it may well be that we don't start, under the present
25 timetable, the Industry's case until well into the

1 spring.

2 In any event, this hearing is escalating,
3 in our view, totally out of control in terms of time
4 and we are fast approaching the stage that either you
5 come up with some proposals to expedite it on your own
6 or the Board is going to institute some procedures that
7 will accomplish that end.

8 As I commented to my colleagues not too
9 long ago, the Supreme Court of Canada dealt with one of
10 the most contentious cases they had dealt with in a
11 long time, the Daigle case, by affording various
12 counsel for various parties 15 minutes each, then the
13 little red light went on which was the signal for each
14 counsel to sit down. Now, we are not suggesting that
15 you can put in this case in 15 minutes each; but what
16 we are suggesting is, is that even institutions like
17 the highest courts in the land, in both Canada and the
18 United States, do find it necessary to limit the time
19 available for parties to make their case and it is not,
20 in my view, beyond the powers of this Board to do so or
21 institute similar measures if there appears to be no
22 other reasonable way to control the overall length of
23 time to present a case.

24 It is hard to fathom why and how any case
25 should take over three years to be put in. If it goes

1 on a lot longer, you are going to be almost up to the
2 rotation age of one of the trees that you are trying to
3 manage.

4 All right. Lecture time is over for now.
5 We will see you tomorrow at 8:30 a.m. And I don't know
6 about the rest of you, but we, all I am sure, hope that
7 the Jays win tonight.

8 Thank you.

9 ---Whereupon the hearing adjourned at 5:35 p.m., to be
10 reconvened on Wednesday, October 4th, 1989,
commencing at 8:30 a.m.

E R R A T A

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Page 23687, line 13: For "MR. CASTRILLI",
Please read: "MR. CASSIDY".

Page 23688, line 7: For "MR. CASTRILLI",
Please read: "MR. CASSIDY".

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Page 1: For "...Wednesday, September 17th, 1989",
Please read: "...Wednesday, September 27th,
1989".

